# Bill Drafting Manual
# 2008

Published by

**Montana Legislative Services Division**
State Capitol Rm 110
1301 E 6th Ave
PO Box 201706
Helena MT 59620-1706
(406)444-3064
FAX (406)444-3036
http://leg.mt.gov

**Code Commissioner and Director of Legal Services**
Gregory J. Petesch

**Legislative Technical Editors**
Carol Ann Jacobsen
Sally Bush
Connie Dixon

**Indexer**
Nadine E. Fox

**Proofreader**
Kip Davis

**Typesetting**
Kevin Hayes

# Preface

The first Bill Drafting Manual was written by the Legislative Council staff during the 1960-61 interim to provide a uniform standard for bill drafting. Its main purpose was to provide the drafter with a reference source to the requirements of Senate and House rules, statutes, the Constitution, and case law, as well as suggestions on the mechanics, technique, and style of legislative drafting.

Our purpose remains the same. The Legislative Services Division staff directs your attention especially to the table of contents, the examples in the appendices, and the index. These resources can be very helpful in locating information pertinent to your needs.

Montana's Bill Drafting Manual is revised each interim in order to incorporate recent changes. We hope that you find the manual useful.

Gregory J. Petesch
Code Commissioner and
Director of Legal Services

# Table of Contents


Chapter 1. Bill Drafting Generally
- 1-1. Policy and the Bill Drafter. . . . 1
- 1-2. Constitutionality — Statutory Provisions. . . . 1
- 1-3. Indian Issues. . . . 3
- 1-4. Research and Drafting. . . . 4
- 1-5. Organization. . . . 5
- 1-6. Timesavers. . . . 5
- 1-7. Drafting Aids. . . . 6
- 1-8. Use of Online Internal Reference List. . . . 7
- 1-9. Bill Drafter Checklist. . . . 9

Chapter 2. Style and Language
- 2-1. Introduction. . . . 11
- 2-2. Word Choice Generally. . . . 11
- 2-3. Tense. . . . 12
- 2-4. Mood. . . . 12
- 2-5. Shall, Must, and May. . . . 12
- 2-6. Negatives. . . . 15
- 2-7. Voice. . . . 15
- 2-8. Number. . . . 15
- 2-9. Articles and Demonstrative Adjectives. . . . 15
- 2-10. Pronouns. . . . 16
- 2-11. Gender. . . . 16
- 2-12. Redundant Adjectives and Adverbs. . . . 20
- 2-13. Consistency. . . . 20
- 2-14. Provisos. . . . 20
- 2-15. The Exception. . . . 21
- 2-16. Use of “That” or “Which”. . . . 21
- 2-17. If, When, Where, or Whenever. . . . 22
- 2-18. Internal References. . . . 22
- 2-19. Use of “This Act”. . . . 23
- 2-20. Words to Be Avoided. . . . 23
- 2-21. Citations. . . . 28

Chapter 3. Form Guide

Capitalization, Punctuation, and Abbreviation
- 3-1. Capitalization. . . . 31
- 3-2. Punctuation. . . . 33
- 3-3. Abbreviation. . . . 37

Numbers
- 3-4. General. . . . 37
- 3-5. Money. . . . 37
- 3-6. Measurements. . . . 38

3-7. Age. . . . . 38
3-8. Time. . . . . 38
3-9. Percentages. . . . . 38
3-10. Unit Modifiers. . . . . 39
3-11. Ordinals. . . . . 39
3-12. Fractions. . . . . 39
3-13. Numbers in Series. . . . . 39
3-14. Classes, Grades, Etc.. . . . . 40
3-15. Dates — Fiscal Years. . . . . 40
3-16. Bill Titles and Catchlines. . . . . 41

Chapter 4. The Bill and Its Parts
4-1. Introduction. . . . . 43
4-2. Bill Arrangement. . . . . 43
4-3. Bill Identification. . . . . 44
4-4. Title. . . . . 45
4-5. Preamble. . . . . 49
4-6. Enacting Clause. . . . . 50
4-7. Short Title. . . . . 50
4-8. Purpose Section. . . . . 50
4-9. Definitions. . . . . 50
4-10. Basic Provisions. . . . . 52
4-11. New Material — Catchlines. . . . . 53
4-12. Amendatory Material. . . . . 54
4-13. Designating New Sections. . . . . 55
4-14. Name Change Amendments. . . . . 55
4-15. Outline Style. . . . . 55
4-16. Penalty. . . . . 59
4-17. Repealer. . . . . 59
4-18. Transition. . . . . 60
4-19. Code Placement and Applicability — Codification Instruction — Directions to Code Commissioner. . . . . 60
4-20. Coordination Instruction. . . . . 62
4-21. Saving Clause. . . . . 63
4-22. Severability Clause. . . . . 64
4-23. Nonseverability Clause. . . . . 65
4-24. Extraordinary Vote Clause. . . . . 65
4-25. Applicability Date. . . . . 65
4-26. Effective Date. . . . . 66
4-27. Termination. . . . . 67

Chapter 5. Special Types of Bills
5-1. Validating Bills. . . . . 69

5-2. Interstate Compacts. . . . . 69
5-3. Uniform or Model Acts. . . . . 69
5-4. Appropriation Bills. . . . . 70
5-5. Constitutional Amendments. . . . . 71
5-6. Referendums. . . . . 71
5-7. Bills Requiring Extraordinary Votes. . . . . 72

Chapter 6. Bills With Special Provisions
6-1. Bills With Fiscal Impact. . . . . 73
6-2. Bills Granting Rulemaking Authority. . . . . 74
6-3. Bills Creating a New Agency. . . . . 75

Chapter 7. Resolutions
7-1. Simple Resolution. . . . . 77
7-2. Joint Resolution. . . . . 77

Chapter 8. Bill Amendments
8-1. Introduction. . . . . 79
8-2. Reminders When Amending Bills. . . . . 79
8-3. Substitute Bill. . . . . 81
8-4. Amendment Language Samples. . . . . 81

Chapter 9. Selected Provisions Relating to Bill Drafting
9-1. Montana Constitution. . . . . 87
9-2. Montana Code Annotated. . . . . 87
9-3. Rules of the Montana Legislature. . . . . 88

Chapter 10. Computerized Bill Drafting and Processing
10-1. Introduction. . . . . 89
10-2. Framing a Search. . . . . 89
10-3. Drafting System. . . . . 90

Appendix A
Sample — Bill With Amendatory Material. . . . . 91
Sample — Bill With Amendatory Material Transferring Funds. . . 93

Appendix B
Sample — Bill With Preamble. . . . . 97

Appendix C
Sample — Bill With All New Material. . . . . 99

Appendix D
Sample — Bill With Amendatory and New Material. . . . . 101

Appendix E
Sample — Bill Amending Session Law. . . . . 103
Sample — Bill Amending Session Law. . . . . 105

Appendix F
Sample — Common Appropriation Bill. . . . . 107
Sample — Appropriation Bill to Satisfy Judgment Against State. . . . . 109

Appendix G
Sample — Extension of Bond Validating Act. . . . . 111

Appendix H
Sample — Referendum for Constitutional Amendment. . . . . 113
Sample — Referendum for Constitutional Amendment. . . . . 115
Sample — Referendum for Constitutional Amendment. . . . . 117

Appendix I
Sample — Referendum for Statutory Amendment. . . . . 119

Appendix J
Sample — Bill Amending Initiative. . . . . 121

Appendix K
Sample — Bill Generally Directing Amendment to Administrative Rule. . . . . 123
Sample — Bill Directing Specific Amendment of Administrative Rule and Repealing Administrative Rule. . . . . 125

Appendix L
Sample — Joint Resolution Requesting Adoption of Administrative Rule. . . . . 127
Sample — Joint Resolution Requesting Amendment of Administrative Rule. . . . . 129

Appendix M
Sample — Simple Resolution. . . . . 131

Appendix N
Sample — Joint Resolution. . . . . 133
Sample — Joint Resolution (using outline form).. . . . . 135
Sample — Joint Resolution Requesting Interim Study. . . . . 137
Sample — Joint Resolution Amending Joint Rules. . . . . 139

Appendix O
Sample — Substitute Bill. . . . . 141

Appendix P
Sample Bill Form — Complete. . . . . 143

Appendix Q
Suggested Assignment of Statute Numbers. . . . . 155

Appendix R
Bill Drafter Checklist. . . . . 157

Appendix S
Tips on Searching. . . . . 159

Appendix T
Preintroduction Form. . . . . 161

Index. . . . . 163

# BILL DRAFTING GENERALLY

## 1-1. Policy and the Bill Drafter.

Bills may be drafted for various persons and groups by bill drafters. Some bills are drafted by the Legislative Services Division staff at the request of a legislator or committee, some are drafted by personnel of departments of state government, and some are drafted by counsel retained by private individuals or groups. Bills requested by an agency or a committee must be preintroduced. Preintroduction is accomplished by having an individual legislator file a preintroduction form that is provided by and returned to the Legislative Services Division. A copy of the form is contained in Appendix T.

The drafter's function is to translate the objectives and policies of the person or group for whom the bill is drafted into clear, concise language. The drafter may not express personal thoughts or promote self-interest but must remain an impartial technician. To do otherwise is to risk drafting legislation containing ideas or implications not intended by the person for whom the bill is drafted.

## 1-2. Constitutionality — Statutory Provisions.

A bill is, in essence, a proposed statute. A statute is the vehicle by which the Legislature exercises its lawmaking power. The United States and Montana Constitutions are the fundamental law upon which our government is based, and any statute enacted by the Legislature must conform to them. Aside from the constraints of physical reality, the Legislature's lawmaking power is limited only by these two Constitutions and by federal statutes. Under the Supremacy Clause (Art. VI) of the U.S. Constitution, any act of Congress that is not itself in violation of the U.S. Constitution may not be contravened by a state legislature. Thousands of volumes have been written on the subject of constitutionality of statutes. However, the purpose of this manual is not to provide an exhaustive discussion of these problems as they may be encountered in bill drafting but to emphasize that constitutionality is a paramount consideration and to bring to the reader's attention a few of the more frequently recurring problems. At a minimum, all bill drafters should periodically review the entire Montana Constitution, which contains many of the same provisions as the U.S. Constitution, and then refresh their memories by referring to the Constitutions whenever a potential problem surfaces. The bill drafter is in a unique position with relation to the public sector in general and the legal community in particular because the drafter has the opportunity, with the concurrence of the bill requester, to forestall constitutional difficulties before they cause confusion, litigation, and expense. Frequently, a bill can be drafted to avoid an inherent constitutional problem while still

accomplishing the basic goals of the requester. Many bill drafting requests arise from a particular problem as perceived by an individual or relatively small interest group. The legislator/requester who is solicited to provide a legislative remedy often wishes to address only the particular problem with a minimum of governmental expense and interference. For these reasons, problems involving equal protection of the law (Art. II, sec. 4, Mont. Const.) and special legislation (Art. V, sec. 12, Mont. Const.) tend to recur. Underlying these provisions is the basic precept that state policy should be made to apply evenhandedly to all persons. These provisions, however, are not absolute prohibitions of all forms of discrimination. The courts will apply various standards under these provisions, depending upon the purpose of the statute and its relationship to the type of discrimination proposed, whether the discrimination involves a suspect classification (e.g., race), or whether a fundamental right (e.g., free speech) is adversely affected or upon other considerations. Suffice it to say that whenever a requested bill draft would, if passed and approved, confer a benefit or impose a burden on certain individuals, groups, or classes of persons to the exclusion of others, the drafter should consider the constitutional implications.

Because the Legislature is in session only periodically and because of the demands of an increasingly complex and technical society, the Legislature sometimes finds it appropriate to delegate some of its power to another entity. Under the separation of powers doctrine, a branch of government may not exercise the powers properly belonging to another branch (Art. III, sec. 1, Mont. Const.). The Legislature may provide for Executive Branch discretion in carrying out the law only if it provides sufficient statutory standards and criteria to guide the executive agency (*In re Gate City S&L Ass'n*, 182 M 361, 597 P2d 84 (1979), for insufficient guidelines, and *Grossman v. St.*, 209 M 427, 682 P2d 1319 (1984), for sufficient guidelines). Such guidance is particularly important in the context of administrative rulemaking through which the power to make legislative rules having the force of law may be delegated. (See discussion of bills granting rulemaking power in section 6-2.) On the other hand, the Legislature generally may not interfere with the Executive Branch in the purely administrative aspects of carrying out the law, such as by imposing a hiring freeze or otherwise making specific staffing and resource allocation decisions (*In re Opinion of the Justices to the Governor*, 341 NE 2d 354 (1976); *Anderson v. Lamm*, 195 Colo. 437, 579 P2d 620 (1978)). Further, the Legislature, within its sphere of power, must act as an entire body and may not delegate final decisionmaking authority to a legislative committee (*State ex rel. Judge v. Legislative Fin. Comm.*, 168 M 470, 543 P2d 1317 (1975)).

Legislative power and responsibility may not be abdicated to private organizations (*St. v. Holland*, 37 M 393, 96 P 719 (1908)) or to the federal government (*Lee v. St.*, 195 M 1, 635 P2d 1282 (1981), rehearing denied, 38 St. Rep. 1931 (1981)). It is a common temptation to simply incorporate the regulations of a private organization or federal laws or regulations into the Montana law by reference. There is no infirmity in incorporating such laws or regulations as they exist at the time of the Montana enactment. The problem lies in referentially incorporating future changes in those laws or regulations (i.e., as they may be amended from time to time) because this has the effect of allowing an entity other than the state Legislature to amend Montana law.

Sections 1-2-112 and 1-2-113, MCA, prohibit the Legislature from imposing new duties on local governments and school districts without providing funding to cover the costs of the new duties. The 1995 Legislature enacted section 1-2-114, MCA, prohibiting even the introduction of a bill that increases local government or school district duties without providing the requisite funding. The 1995 Legislature also enacted section 1-2-115, MCA, which provides a means for local governments and school districts to avoid the requirements of any bill that is passed in violation of section 1-2-112 or 1-2-113, MCA.

The bill drafter should avoid referential incorporation of laws or regulations "as amended"; further, when referentially incorporating such laws or regulations as they exist at the time of enactment, this incorporation should be expressly stated (e.g., "Eligibility criteria are those provided for in 35 U.S.C. 405, as that statute reads on [the effective date of this act]."). For a statutory treatment of the problem of incorporation by reference in the administrative rulemaking context, see section 2-4-307, MCA. Incorporation by reference of other MCA sections does not present constitutional problems and can often be used to good advantage. (See Internal References, section 2-18.)

For discussion of the constitutional provision dealing with bill titles, see section 4-4.

**1-3. Indian Issues.**

The bill drafter should consider whether the new legislation could affect the Montana Indian tribes. Certain topics, including mining, hunting, fishing, gambling, adoption, and taxation, may affect the Montana tribes. The Legislative Services Division has prepared standard language to provide notification to the tribes. See Appendix P for an example of this form.

Additionally, the bill drafter should be aware that because of the special status of tribal governments and certain attributes of tribal sovereignty, the Legislature may not impose mandates on tribal governments.

If a bill relates to only one specific tribe, it is preferable to use the tribal name whenever possible (i.e., "Crow tribe" or "Blackfeet tribe" in Code; "Crow Tribe" or "Blackfeet Tribe" in resolutions). Otherwise, the term "Indian" is preferred. Use of the term "Native American" is discouraged because it is very broad and can properly apply to anyone born in America.

If a bill amends or establishes a program in which tribal governments may be interested in participating, the applicable definition section may need to include a definition of "tribal government". The term is usually defined as "a federally recognized Indian tribe located within the boundaries of the state of Montana". Federal recognition acknowledges the special relationship existing between the federal government and a tribe, confirms the inherent rights and self-governing powers of the tribe, and confers specific benefits and services on the tribe through various federal laws.

**1-4. Research and Drafting.**

Research and organizing are steps inherent in all writing. Bill drafting is no exception.

Occasionally, a drafter will have the facts and law sufficiently well in mind so that drafting can be done with little research. However, the precision and complexity of the law usually require research.

The extent of research required depends on the complexity of the drafting problem. The drafter must define that problem and then determine how to achieve the purpose of the bill.

Analysis of the problem to be solved will enable the drafter to determine the sources to consult for more information. Sources of information that must be considered by the drafter include the state and federal Constitutions (see Constitutionality — Statutory Provisions, section 1-2); existing federal, state, or local statutes; case law; pending law; and applicable federal, state, or local regulations.

The importance of reviewing existing state statutes in the area of law to which the draft relates cannot be overemphasized. Omission of this step often results in conflict, overlap, or redundancy, thus creating more problems than are solved. Therefore, a determination as to which existing statutes, if any, should be repealed or amended must be made with regard to every bill draft. (See Use of Online Internal Reference List, section 1-8.)

Research preparation must be as thorough as time allows. A thorough understanding of the legal and practical factors involved in a bill is necessary to ensure production of a bill that will accomplish the purpose of its proponent. The drafter has a professional obligation to advise the proponent of possible legal or practical problems of which the drafter is aware.

No one can tell the drafter when enough research is done. The drafter must determine when to stop gathering information and start writing.

**1-5. Organization.**

Organize the information at hand. Develop an outline that places the elements of the problem in a logical pattern. A bill for only a simple amendment to existing law will present no organizational problem. A major new body of law will require considerable effort to guarantee clarity. Some bill parts are so common that their placement in a bill has been standardized. A drafter must be familiar with the standard bill format discussed in Chapter 4 of this manual before beginning to organize the bill.

Begin to draft the bill when the work is outlined. Rewrite the bill as often as is necessary to achieve clarity, coherence, and unity. Revise the organization of the bill if revision contributes to clarity.

**1-6. Timesavers.**

There are several timesavers that may be used in preparing a draft bill.

(1) (a) The Legislative Services Division staff requires that all MCA statute text be downloaded from the most recent database (on CD-ROM) prepared by the Legislative Services Division. In a section of statute text, new material must be shown as underlined and deleted material must be shown as stricken. Under each downloaded section, there will appear a list of any MCA locations that contain references to that section. The drafter is responsible for checking the sections containing the references and including in the bill draft any necessary amendments to those sections. (See Use of Online Internal Reference List, section 1-8.)

(b) If it is impossible to download statute text from the Legislative Services Division's database, the drafter should use the "cut-and-paste" method by taping on a separate sheet of paper a copy of the most recent version of each MCA section to be amended and by indicating new language and deletions in red pen on the copy. A drafter using this method is responsible for including all affected sections from the online internal reference list. (See section 1-8.)

(2) Material that is completely new and that does not amend an MCA section should not be underlined.

(3) The Legislative Services Division provides computer drafting aids, called macros, that streamline the drafting process. Various standard phrases and "housekeeping" (noncodified) sections, such as an effective date or severability section, are available to drafters who use the Legislative Services Division database.

(4) When using the cut-and-paste method to draft a large or complex bill, it may be useful to place each section on a separate sheet of paper and rearrange the sections until a cohesive draft is prepared. Under either the

downloaded or the cut-and-paste method, section numbers and internal references should not be filled in until the final arrangement is reached.

(5) At the end of the bill draft, write "End" so that it will be clear that it is the end of the bill. Often, there are copies of background material, preliminary drafts, or other documents attached. (Please include a photocopy of the title page and the section text of any non-Montana act actually cited in the bill draft text.)

(6) Bill drafts may be submitted to the Legislative Services Division by electronic mail (preferred) or on DOS-formatted diskettes. Although the Legislative Services Division uses WordPerfect word processing software, files from other word processing formats may be converted to WordPerfect. (If a drafter has a question concerning file compatibility, contact the Legislative Services Division.) Bill drafts may also be submitted by telefacsimile transmission. The phone number for the Legislative Services Division telefacsimile machine is 444-3036. If this method is used, the drafter is requested to also submit an original version of the bill draft because a telefacsimile copy is often difficult to read and may not be fully transmitted.

**1-7. Drafting Aids.**

The following serve as aids in drafting bills:

(1) Without creating a potential conflict or overlap, a bill may be patterned after existing Montana statutes. For example, when drafting a bill creating a board to license a particular occupation, the drafter should examine various licensing laws for a suitable model. The drafter, however, must be very careful to make all necessary adjustments to such a model. Not only is it a rare case that allows near verbatim use of existing law in a bill draft, but existing statutes are sometimes poorly organized and unclearly worded; this is particularly true of very old statutes.

(2) Similarly, bills introduced in past sessions may be helpful. The *History and Final Status* may be used to determine whether a bill on a particular topic was introduced in that session and, if so, the bill's number. The Office of the Secretary of State has copies of all introduced bills for all past sessions. All versions of bills from the 1991 session up through the most recent session are available.

When using a bill from a previous session as a "model" for new legislation, all MCA sections must be downloaded from the existing database to ensure that the current version of the law is being amended and all new language (underlined in an MCA section or contained in new sections) must be updated to ensure accurate references to the law.

(3) The printed reports and the online subject search feature available on the LAWS (Legislative Automated Workflow System) Internet system that displays Bill Draft Requests by Subject and Introduced Bills by Subject

can be referenced to see whether an identical or similar bill draft or bill has been requested or introduced. Each of these information sources groups bill drafts and bills under a specific subject. The short titles can then be checked to help detect similar bills. These services are available in early October prior to a session.

(4) Comparison of laws of other states on the same subject is usually very beneficial. In following a law from another state, the drafter must be very careful to make the bill language conform to Montana law and to good drafting practice and style. (Be especially careful to check the Constitutions of both states. What is constitutional in another state may not be constitutional in Montana.) If the draft submitted to the Legislative Services Division is drawn from another state, attach a note so indicating. (If the bill becomes law, this information will be used in a "Source" compiler's comment included in the MCA Annotations.) Also, include a photocopy of the title page and the section text of any non-Montana material actually cited in the bill draft text.

(5) A list of uniform and model acts and the latest volume of *Suggested State Legislation* should be checked to see if a uniform act (which is intended to be followed exactly in substance), a model act, or a suggested act could be used as a guide. The substance of uniform acts may not be modified. Model acts may be modified, and they may be edited to conform to MCA style. If not readily apparent from the draft, a note indicating the source of the draft should be attached as explained in (4) above.

(6) If time permits, the drafter should consult with experts in the field affected. If the bill affects a governmental or state agency, a conference or discussion with an appropriate staff member from the agency is very helpful and a draft of the proposal may be sent to the agency for comment.

(7) See Chapter 9 for a list of constitutional and statutory provisions and legislative rules relating to bills.

**1-8. Use of Online Internal Reference List.**

When amending or repealing an MCA section, the drafter must check the online internal reference list. This list is available to drafters who have the capability to download MCA sections from the Legislative Services Division database. The drafter may use a macro to access a list of references to any particular MCA section.

Also, whenever an MCA section is downloaded, any references to that section will be displayed directly below it. This should act as a reminder for the drafter to carefully check the listed sections to determine whether any of them should be amended (and therefore be included in the bill draft).

A drafter who needs information from the online internal reference list but who does not have access to the Legislative Services Division database should contact the Legislative Services Division.

EXAMPLE 1: The internal reference list for section 30-4-104, MCA, appears as follows:

Internal References to 30-4-104:
30-3-102 30-3-102 30-3-102
30-3-102 30-3-102 30-3-102
30-4A-105 30-4A-105 30-4A-105
30-9A-102

In the example above, references to section 30-4-104 appear six times in section 30-3-102, as indicated by the six listings of section 30-3-102. References to section 30-4-104 appear three times in section 30-4A-105. A reference to section 30-4-104 appears once in section 30-9A-102.

When amending section 30-4-104, the drafter must read sections 30-3-102, 30-4A-105, and 30-9A-102 to determine whether the amendment to section 30-4-104 affects those sections. If a drafter is repealing section 30-4-104, it is mandatory that each section that refers to section 30-4-104 be amended to delete the references and to make any other necessary modifications.

EXAMPLE 2: The internal reference list for section 85-7-1832, MCA, appears as follows:

Internal References to 85-7-1832:
85-7-1833*

In the example above, the asterisk indicates that a reference to section 85-7-1832 does not actually appear in section 85-7-1833 but is included in a larger reference, such as "85-7-1831 through 85-7-1833". If section 85-7-1832 is repealed or if it is amended so that the reference is no longer accurate, "85-7-1831 through 85-7-1833" must be amended to read "85-7-1831 and 85-7-1833".

The drafter must be extremely careful when renumbering subsections within a section. For instance, if the drafter changes "1-1-101(2)(b)" to "1-1-101(3)(c)", all references within that section and in other statutes to "1-1-101(2)(b)" and to subsequent subsections of section 1-1-101 are rendered erroneous.

When renumbering subsections within a section, the entire section must be read carefully for references to subsections, such as "subsection (3)". Such references are not listed on the online internal reference list because the entire section number does not appear in the reference; only the subsection number appears.

In the same manner, all references in other statutes to the reoutlined section must be checked for such phrases as "subsection (2)(b) of 1-1-101" or "1-1-101(2)(b)". The drafter should use the online reference list to check and amend, if necessary, the appropriate sections.

**1-9. Bill Drafter Checklist.**

Appendix R and the "Bill Drafting Request" form (available upon request from the Legislative Services Division) provide a "Bill Drafter Checklist" that will aid the drafter in ensuring that essential matters have been considered. The completed checklist will also provide the Legislative Services Division and the Legislature with useful information. If the drafter does not have a "Bill Drafting Request" form, the checklist in Appendix R should be copied, filled out, and attached to any bill draft submitted to the Legislative Services Division. Each item on the list calls for a "yes", "no", or "N/A" (not applicable) entry.

# STYLE AND LANGUAGE

## 2-1. Introduction.

Bills should be written in a simple, clear, and direct style, using complete sentences and phrased for the common reader as well as for the political or legal expert.

A poorly drafted, ambiguous bill will waste the time of citizens affected, confuse those charged with its administration, lead to litigation, and likely fail to accomplish the purpose of the requester. Good drafting requires concise wording that is understandable by a person who has no special knowledge of the subject.

If wording in a bill has to be paraphrased to make it intelligible to a nonexpert, it needs revising. In Montana, the common-law tradition has manifested itself in the timeworn, nonessential phrases and rhetorical flourishes found in our older legislative enactments. The suggestions contained in this chapter are designed to help the drafter avoid the most common faults in style and language evident in some of our present law.

As authority for basic rules of writing, the Legislative Services Division uses the latest edition of the *United States Government Printing Office Style Manual* and *The Gregg Reference Manual, Tenth Edition*, by William A. Sabin. Compounding of words is done according to the *Style Manual* and according to agency guidelines.

Generally, the ordinary rules of grammar apply to legislative writing; however, in a few instances, a departure from common usage is followed.

## 2-2. Word Choice Generally.

The objective in legislative drafting is to make the final product as precise and understandable as possible. There are hundreds of expressions, legal and otherwise, that can be simplified. In general:

(1) never use a long word if a short one will do;

(2) if it is possible to omit a word and preserve the desired meaning, always omit it; and

(3) never use a foreign phrase, a scientific word, or a jargon word if there is an everyday English equivalent.

Remember that the bill must be both precise and clear. While striving for unstilted, clear, natural expression, the drafter must avoid becoming conversational. In conversation, the speaker reserves the right to explain what is meant. The drafter is not granted such a right. The entire meaning of a bill could be determined by the choice of one key word, so words must be chosen carefully.

An example of the kind of word choice to avoid is the conversational verb construct. This verb form appears most regularly as the combination of an accepted verbal base ("speed") and an accepted preposition ("up").

The resulting formulation ("speed up") is a conversational term unacceptable in bill drafting.

**2-3. Tense.**

Use the present tense. The law speaks in the present, and each law is designed to give a rule for the continuing present. The present tense is a simple and natural form of expression. "The present tense includes the future as well as the present." (See section 1-2-105(1), MCA.)

*preferred* A defendant in a criminal action is presumed to be innocent until the contrary is proved. When there is reasonable doubt whether guilt is satisfactorily shown, the defendant is entitled to an acquittal. (Present tense)

*avoid* A defendant in a criminal action shall be presumed to be innocent until the contrary shall be proved. When there is reasonable doubt whether guilt shall be satisfactorily shown, the defendant shall be entitled to an acquittal. (Future tense)

**2-4. Mood.**

Use the indicative mood. The drafter should avoid using the false imperative. The word "shall" should not be used to state a legal result or fact.

*preferred* The term "commission" means the capitol restoration commission.

*avoid* The term "commission" shall mean the capitol restoration commission.

*preferred* A person who violates [sections 1 through 5] is guilty of a misdemeanor.

*avoid* A person who violates [sections 1 through 5] shall be guilty of a misdemeanor.

**2-5. Shall, Must, and May.**

Avoid using will, should, and ought.

**Shall**

Use "shall" when imposing a duty on a person or entity. (Active) (See exception in section 4-16.)

*example* The licensee (department, judge, court) shall give the debtor a copy of the signed contract.

**Must**

Use "must" when the subject is a thing rather than a person or entity. (Passive)

*preferred* The information must be set forth in the application.

*avoid* The information shall be set forth in the application.

*preferred* The application must contain the applicant's name.

*avoid* The application shall contain the applicant's name.

Use "must" when the subject is a person or entity that is acted upon. (Passive)

*preferred* The judge must receive the application by the deadline.

*avoid* The judge shall receive the application by the deadline.

Use "must" to express requirements about what a person or an entity must be or have rather than what a person or entity must do.

*preferred* A candidate must be designated by the board and must be 18 years of age.

*avoid* A candidate shall be designated by the board and shall be 18 years of age.

*preferred* The nominee must meet the requirements of 37-3-305.

*avoid* The nominee shall meet the requirements of 37-3-305.

*preferred* The applicant must have a master's degree.

*avoid* The applicant shall have a master's degree.

*preferred* The members of the committee must include four physical therapists.

*avoid* The members of the committee shall include four physical therapists.

*preferred* The sheriff must become a member of the panel.

*avoid* The sheriff shall become a member of the panel.

**May**

Use "may" to confer a discretionary right, privilege, or power.

*example* The applicant may renew the application.

**May not**

Use "may not" to express a prohibition.

Use "may not" if the verb that it qualifies is in the active voice.

*preferred* The applicant may not submit more than one application.

*avoid* The applicant must not submit more than one application.

*preferred* The applicant may not be a convicted embezzler.

*avoid* The applicant shall not be a convicted embezzler.

**Mandates and prohibitions**

When qualifying a verb in the active voice, "shall" is used as mandatory and "may not" or "may only" as prohibitory.

*preferred* The applicant shall sign the application.

*avoid* The applicant must sign the application.

*preferred* The applicant may not submit more than one application.

*avoid* The applicant must not submit more than one application.

*avoid* The applicant shall not submit more than one application.

*preferred* The applicant may submit only one application.

Whenever possible, use "shall" only in an imperative or mandatory sense and "may" in a permissive sense. When a right, privilege, or power is conferred, "may" should be used.

Do not use "shall" to confer a right because that implies a duty to enjoy the right.

*preferred* The officer is entitled to an annual salary of $40,000.

*avoid* The officer shall receive an annual salary of $40,000.

*preferred* The annual salary is $40,000.

*avoid* The annual salary shall be $40,000.

**2-6. Negatives.**

"Nor" may be used alone as a conjunction or with "neither".

Do not use "nor" in the same clause with any other negative; use "or" instead.

*correct* There are no pens or pencils in the storeroom.

*incorrect* There are no pens nor pencils in the storeroom.

**2-7. Voice.**

Whenever possible, draft in the active voice instead of the passive.

*preferred* The board shall appoint a director. (Active)

*avoid* A director must be appointed by the board. (Passive)

The active voice gives the agent, the doer, its logical position before the verb.

**2-8. Number.**

Use the singular instead of the plural when possible. The singular includes the plural. (See section 1-2-105(3), MCA.)

*preferred* A defendant in a criminal action is presumed innocent until the contrary is proved. (Singular)

*avoid* Defendants in criminal actions are presumed innocent until the contrary is proved. (Plural)

**2-9. Articles and Demonstrative Adjectives.**

"A person who violates" is preferred to "any person who violates", "each person who violates", or "all persons who violate". Consistent use of

the articles "a" or "an" results in smoother writing and more precise expression.

There are phrases that require the indefinite article to be omitted, especially after a negative. The negative supersedes the article by including it. An example is "No more expeditious way can be found", not "No more expeditious a way". Whenever possible, the extra article should be avoided.

"Such" or "said", as in "such person" or "said board", should also be avoided. "Said" is archaic and should never be used. Usually "such" can be avoided by referring to "the board", "an institution", "a person", "these laws", etc., or by employing the appropriate pronoun, such as "it". However, "such" may be needed occasionally to identify the thing to which it refers and should be used if necessary to avoid ambiguity.

**2-10. Pronouns.**

Use a pronoun only if its antecedent (the word for which the pronoun stands) is unmistakable. A pronoun must agree with its antecedent in number and person.

Use a plural pronoun when the antecedent consists of two nouns joined by "and" and a singular pronoun when the antecedent consists of two singular nouns joined by "or" or "nor". When "or" or "nor" joins a singular noun and a plural noun, a pronoun should agree in number with the nearer noun. However, strict application of this rule can distort meaning, so it is usually best to try to make the construction plural.

*avoid* The parents or guardian of a person alleged to be developmentally disabled has the right to have the person examined by a professional person of his choice ("his" supposedly refers to "guardian" but could also refer to the developmentally disabled person).

*preferred* The parents or guardians of a person alleged to be developmentally disabled have the right to have the person examined by a professional person of their choice.

**2-11. Gender.**

The Legislative Council has adopted a policy that all bills be drafted using gender-neutral terms. For example, in referring to a person who writes a statute, refer to the "drafter", not the "draftsman". An example of this type of gender neutrality can be found in the Workers' Compensation Act, in which the term "workers' compensation" was formerly referred to as "workmen's compensation". Creating an artificial gender-neutral term is unacceptable. Referring to a presiding officer as a "chair" or "chairperson"

is an example of the use of an artificial designation. Use "presiding officer" instead.

Do not use gender-based pronouns. There are two easy methods that the drafter may employ to avoid using gender-based pronouns. The first method omits the use of the pronoun. For example, instead of saying "A board member is entitled to $50 for each day that he attends a board meeting", say "A board member is entitled to $50 for each day of attendance at a board meeting". The second method is to repeat the noun instead of the pronoun. For example, instead of saying "If the director determines that the plan does not meet statutory requirements, he shall adopt a temporary plan", say "If the director determines that the plan does not meet statutory requirements, the director shall adopt a temporary plan".

The use of a combination of gender-specific pronouns is not an acceptable method of using gender-neutral language. For example, a drafter may not use "he or she", "his or her", or "he/she".

**WAYS TO MAKE TERMS GENDER-NEUTRAL**

| OLD TERM | GENDER-NEUTRAL TERM |
|---|---|
| actor | no change |
| airman | aircrew member |
| alderman | city council member |
| boatman | boater |
| bondsman | bonding agent |
| brakeman | brake tender |
| brother | sibling |
| brotherhood | fraternal organization |
| busboy | busperson |
| businessman | business person |
| businessmen | business people (persons) |
| care of himself | provide self-care |
| chainman | surveyor's assistant |
| chairman | presiding officer (not chair) |
| clergyman | member of the clergy |
| co-ed | student |
| committeeman | committee member |
| congressman | member of the house of representatives |
| councilman | council member |
| craftsman | skilled worker or artisan |
| dairyman | dairy producer |
| daughter | child |
| doorman | door attendant |

| OLD TERM | GENDER-NEUTRAL TERM |
|---|---|
| draftsman | drafter |
| eight-man board | eight-member board |
| enlisted man | enlisted person |
| entryman | no change |
| father | parent (some exceptions) |
| ferryman | ferry operator |
| fieldman | field worker |
| fireman | firefighter |
| fisherman | angler |
| flagman | flag person |
| foreman | lead supervisor |
| foreman (jury) | jury supervisor |
| fraternal organization | no change |
| fraternity | no change |
| grandfather, grandmother | grandparent |
| grandfather clause | no change |
| guardsmen | guard members |
| headmaster | no change |
| his own | the person's own |
| holds himself out to be | a person represents to the public that the person is |
| housewife | homemaker (not housespouse) |
| human | no change |
| husband | spouse |
| husbandry | no change |
| journeyman | no change |
| landlord | no change |
| layman's terms | plain language |
| layman | layperson |
| maiden name | birth name |
| mailman, postman | mail carrier |
| manhole | no change |
| man-induced | artificially induced |
| mankind | humanity, humankind, the human race, people, society |
| manmade | artificial, synthetic, constructed, manufactured (changes caused by human activity) |
| manned, unmanned | staffed, unstaffed |
| manpower | personnel, staffing, workforce, labor force, labor supply |

| OLD TERM | GENDER-NEUTRAL TERM |
|---|---|
| manslaughter | no change |
| marksmanship | no change |
| materialman's lien | use "construction lien" if possible |
| matron | jail guard |
| midwife | no change |
| militiaman | militia member |
| mother | parent (some exceptions) |
| motorman | driver |
| nurseryman | nursery operator |
| nursemaid | child-care provider |
| ombudsman | no change |
| parts man | parts person |
| patrolman | patrol officer |
| poetess | poet |
| policeman | police officer |
| postmaster | no change |
| poundmaster | no change |
| quartermaster | no change |
| remainderman | no change |
| repairman | repair worker<br>repairer |
| salesman, salesmen | salesperson, salespeople |
| serviceman | service member |
| signal man | signaler |
| sister | sibling |
| son | child |
| spokesman | representative |
| sportsman | hunter or angler |
| recreational user | outdoor recreationist<br>conservationist |
| statesman | government leader |
| stepfather, stepmother | stepparent |
| stockman | stockgrower |
| supporting himself | providing self-support |
| thresherman | thresher |
| tillerman | tiller operator |
| tradesman | skilled worker |
| trainman | train operator<br>train worker<br>train crew member |
| unable to care for himself | unable to provide self-care |

| OLD TERM | GENDER-NEUTRAL TERM |
|---|---|
| vestryman | vestry member |
| warehouseman | warehouse agent |
| warehouse worker | warehouse operator |
| watchman | security guard |
| weighmaster | no change |
| widow, widower | surviving spouse |
| wife | spouse |
| workmanlike, workmanship | no change |
| workingmen | workers |
| yardmen | yard workers |

**2-12. Redundant Adjectives and Adverbs.**

Avoid adjectives such as "real", "true", and "actual" and adverbs such as "duly" and "properly". Because these ideas are normally implied, expressing them in some instances creates doubt that they are implied elsewhere. (Reed Dickerson, *Legislative Drafting*, pages 86 and 87.)

*preferred* The applicant shall write the applicant's age in the appropriate blank.

*avoid* The applicant shall write the applicant's actual age in the appropriate blank.

**2-13. Consistency.**

To avoid confusion, the drafter must be consistent in word usage. For instance, if the drafter uses "employee" in one section, "worker" should not be used in another section merely for the sake of literary variety. ("Poetic licenses" are never issued to bill drafters.) Also, the drafter should not use the same word to denote different things.

**2-14. Provisos.**

Provisos are clauses introduced by "provided, however", "provided that", "provided further", and "provided always"; they should be avoided.

The word "provided" has been so overworked in legislative drafting that it has no definite meaning. Little, if any, significance is given to the word "provided". It must be defined by the court before it can be interpreted. "The word 'provided', when used in a legislative enactment, may create a condition, limitation, or exception to the Act itself, or it may be used merely as a conjunction meaning 'and' or 'before', and as to what sense the

word was used must be determined from the context of the Act." (*State ex rel. Bd. of County Comm'rs v. Bruce*, 104 M 500, 516, 69 P2d 97 (1937))

Introduce an exception or limitation with "except that", "but", or "however" or, better yet, simply start a new sentence. If there are many conditions or exceptions, they should be placed in a separate subsection or in a tabulated list at the end of the sentence.

**2-15. The Exception.**

The exception is used to exempt something from the application of the law and should be stated precisely in order to describe only those persons or things intended to be excepted. The direct statement should include all persons and things to be covered by the rule. If there is a simple exception to the rule, the exception may be placed at the end of the rule.

*example* A license must be obtained by each person except a person who:
(1) is 65 years of age or older;
(2) has resided in the state for less than 1 year; and
(3) claims . . . .

The preferred construction is to place the exception in a separate subsection and incorporate it by reference into the subsection stating the rule.

*example* (1) Except as provided in subsection (2), the board may . . . .
(2) [Sections 2 through 6] do not apply to . . . .

**2-16. Use of "That" or "Which".**

The word "that" begins a restrictive clause that:
(1) restricts, limits, or describes the word modified; and
(2) is necessary to identify the word modified.

The meaning of the sentence is not complete without the "that" clause. The clause is essential rather than parenthetical, so commas should not be used to enclose the clause.

*example* A fence that conforms to the provisions of 81-4-101 is a legal fence.

The word "which" begins a nonrestrictive clause that:
(1) does not restrict the word modified; and
(2) gives additional, supplemental, or descriptive information about the word modified.

The meaning of the sentence is complete without the "which" clause, so commas should be used to enclose the clause.

*example* A fence, which may be a legal fence according to the provisions of 81-4-101, must be built within 30 days after receiving the permit.

The term "which" is relatively uncommon in good bill drafting because nonessential information is usually inappropriate for statutory language.

**2-17. If, When, Where, or Whenever.**

The word "where" denotes place only.

If the application of a provision of an act is limited by the single occurrence of a condition that may never occur, use "if" to introduce the condition, not "when" or "where".

*example* If the suspect resists arrest, the officer may use force to subdue the suspect.

If the condition may occur more than once with respect to the object to which it applies, use "whenever", not "if", "when", or "where".

*example* Whenever the officer receives a call, the time must be noted in the officer's report.

If the condition is certain to occur, use "when", not "if", "where", or "whenever".

*example* When the statute takes effect, all pending proceedings must be dismissed.

**2-18. Internal References.**

Prior to 1979, creation of internal references to other sections, parts, or chapters of the Code was discouraged in bill drafting because of the rule of *Gustafson v. Hammond Irrigation District*, 87 M 217, 287 P 640 (1930). In Gustafson, the court held that reference to a statute is as that statute existed at the time of its adoption and subsequent repeal or modification of the statute does not affect the reference to the statute in another statute. This rule had the effect of requiring the statutory researcher to trace through the Session Laws to determine when each internal reference was created and how the referenced section read at that time. At the request of the Code Commissioner, the 1979 Legislature amended section 1-2-108, MCA, to add a subsection (2) reversing the Gustafson rule. The use of internal

references is, therefore, no longer flatly discouraged and can often be used to provide brevity. However, see *St. v. Conrad*, 197 M 406, 643 P2d 239 (1982), for discussion of the applicability of this statute to criminal matters involving retroactive application of an internal reference. (Note that the retroactivity issue was resolved by 1983 amendment subsequent to Conrad.) Avoid overusing internal references because it is difficult to comprehend a section of the law when it has to be read together with many other sections. For discussion of related issues, see section 2-19.

**2-19. Use of "This Act".**

Use of the words "this act" should be avoided except in noncodified sections (see section 4-2). As discovered during the recodification process, "this act" often creates a problem because the word "act" must be changed to an appropriate term, such as "title", "chapter", "part", or "section". References to "this act" may be avoided by substituting references to specific bill sections that are permanent and that will be codified (e.g., "[sections 1 through 24]" when sections 25 and 26 are a repealer section and an effective date section).

It is particularly important to avoid use of "this act" if a bill contains amendments to existing MCA sections because technically the act includes only the deletions or additions, or both, to the amended MCA sections and not the remainder of those sections. Therefore, use of "this act" could cause confusion concerning its specific reference and present difficulties in changing "this act" to an MCA reference during codification. In such cases, specific references (whether to the MCA sections being amended, other MCA sections, parts, or chapters, new bill sections, or any appropriate combination thereof) must be substituted for "this act". For the same reason, when referring to an MCA section that is being amended, reference must be made to the MCA section number, not the bill section number; to refer to the bill section is to refer only to the amendment, which creates ambiguity and difficulty in codification.

This admonition does not apply to use of "this act" in temporary sections that will not be codified, such as effective date and transition sections.

**2-20. Words to Be Avoided.**

The left-hand column of the following list includes some words and phrases that should be avoided unless there are special reasons to the contrary. Some are flowery, some are archaic, and some are vague; all lack the precision needed for clear expression. The words in the right-hand column are those that the average reader understands more readily.

| AVOID | USE |
|---|---|
| absolutely null and void and of no effect | void |
| aforesaid; aforementioned; beforementioned | the; that; those (see "hereinafter") |
| afforded or accorded | given |
| and/or | either X or Y, or both; X and Y or either of them |
| any and all | (either word) |
| as (in clauses of reason) | because |
| at such time as | when; whenever |
| at the time of death | when the person dies |
| attorney- and counselor-at-law | attorney |
| be and the same is hereby | is |
| bonds, notes, checks, drafts, and other evidences of indebtedness | evidence of indebtedness |
| bring an action | sue |
| carry out | execute; complete; administer |
| chairman | presiding officer |
| constitute and appoint | appoint |
| deal with | address; conduct |
| deem | consider |
| does not operate to | does not |
| due to (normally used only after some form of the verb "to be") | because |
| during such time as | while |
| during the course of | during |
| each and all | (either word) |
| employ (meaning to use) | use |
| enter into a contract with | contract with |
| every | each |
| every person; all persons | a person |
| evidence, documentary or otherwise | evidence |
| evince | show |
| examine witnesses and hear testimony | take testimony |
| fail, refuse, or neglect | fail |
| feasible | practicable; workable |

| AVOID | USE |
|---|---|
| formulate | make |
| for the duration of | during |
| for the purpose of | for |
| for the reason that | because |
| forthwith | immediately |
| from and after | after |
| full and complete | full |
| full force and effect (use with regard to surety bonds) | force; effect |
| give consideration to | consider |
| give recognition to | recognize |
| have knowledge of | know |
| have need of | need |
| he or she; his or her; he/she | refer to the subject - "the licensee", "permitholder", etc. |
| hereafter | after [the effective date of this act]; after (calendar date) |
| hereinafter; hereinbefore; hereinabove; above; below; following; preceding | (these are objectionable when referring to the position of a section or other statutory provision; if reference is necessary, specify the chapter, part, section, or subsection by number) |
| in case | if |
| in cases in which | when; if; whenever |
| in order to | to |
| in the event that | if |
| in sections 1-1-501 to 1-1-511, inclusive | in 1-1-501 through 1-1-511 |
| institute; initiate | begin; start |
| insure (verb, to make sure) | ensure |
| is able to | can |
| is applicable | applies |
| is authorized to | may |
| is binding upon | binds |

| AVOID | USE |
|---|---|
| is defined and shall be construed to mean | means |
| is dependent on | depends on |
| is directed to | shall |
| is empowered to | may |
| is hereby authorized and it shall be the person's duty to | shall |
| is hereby vested with power and authority and it shall be the person's duty in carrying out the provisions of this part to | shall |
| is required to | shall |
| is unable to | cannot |
| it is the person's duty to | shall |
| it is lawful to | may |
| law passed | law enacted |
| legislative assembly | legislature |
| make application | apply |
| make payment | pay |
| make provision for | provide for |
| matter transmitted through the mail | mail |
| means and includes | means; includes |
| member of a partnership | partner |
| modify | change |
| monies, moneys | money |
| Native American | Indian |
| necessitate | require |
| none whatever | none; no |
| not later than | before |
| null and void | void |
| occasion (verb) | cause |
| of a technical nature | technical |
| ordered, adjudged, and decreed | ordered |
| or, in the alternative | or |
| party | person (unless referring to a party to a suit or action) |

| AVOID | USE |
|---|---|
| per annum | a year |
| per centum | percent |
| per day | a day |
| per foot | a foot |
| per hour | an hour |
| period of time | period; time |
| person of suitable age and discretion | adult (or state age) |
| pled | pleaded |
| prosecute its business | conduct its business |
| proven | proved |
| provided (conjunction) | if; but |
| provided, further; provided, however; provided that | if; except; but; however (or start a new sentence) |
| provision of law | law |
| registered or certified mail | certified mail |
| render (meaning to give) | give |
| retain | keep |
| revenues | revenue |
| rules and regulations | rules (or, if federal, regulations) |
| said (as adjective) | the; that; those |
| same | it |
| shall have the power to | may |
| since (in clauses of reason) | because |
| sole and exclusive | exclusive |
| speed up | hasten; expedite |
| subdivision; clause; paragraph | subsection |
| subsequent to | after |
| such | (do not use if an article can be used with equal clarity) |
| terminate | end |
| the place of abode | residence |
| to wit | (this is verbiage; delete it or use "namely") |
| unless and until | unless; until |
| until such time as | until |
| utilization | use |
| whatsoever | whatever |
| whensoever | when; if; whenever |

| AVOID | USE |
|---|---|
| wheresoever | where |
| while (in clauses of reason) | although, because |
| whosoever | whoever |
| whomsoever | (archaic; improper) |

**2-21. Citations.**

(See also section 3-1(8) and examples.)

**(1) Code**

The statutes of Montana are cited as the "Montana Code Annotated" or "MCA". The Code is arranged topically by title (see preface to the MCA) and is further subdivided into chapters, parts, and sections. Section 1-2-108, MCA, provides that a statute that refers to another portion of the Code is presumed to refer to the Montana Code Annotated. Therefore, the designation "Montana Code Annotated" or "MCA" is omitted within the Code or within material intended to be codified, but it is generally used in other references. Section 1-2-108, MCA, also provides that a reference to a portion of the Code is presumed to be a reference to that portion as it may be amended. In other words, no reference to year of enactment or amendment is necessary to cite the MCA.

(a) in bills, " . . . as provided in Title 19, chapter 5, part 4, . . ."

(b) in resolutions or preambles, " . . . as provided in section 19-5-401, MCA, . . ."

**(2) Montana Constitution and Federal Constitution**

The state Constitution is formally cited as "The Constitution of the State of Montana" and more usually cited as "the Montana constitution" in Code or "the Montana Constitution" in other references. The Montana Constitution is arranged topically in articles and sections.

(a) in bills, " . . . as provided in Article IX, section 5, of the Montana constitution . . ."
(b) in resolutions or preambles, " . . . as provided in Article IX, section 5, of the Montana Constitution . . ."

The federal Constitution may be cited as "the United States constitution" in Code and as "the United States Constitution" in other references.

(a) in bills, ". . . as provided in Article II, section 1, of the United States constitution . . ."
(b) in resolutions or preambles, ". . . as provided in Article II, section 1, of the United States Constitution . . ."

**(3) Session Laws**

Session laws are the compilation of all legislation passed into law by a specific legislative session. Session laws are arranged by legislative session year and are divided into chapters, which are further divided into sections.

(a) "Chapter 5, Laws of 2007, . . ."
(b) " . . . section 2, Chapter 5, Laws of 2007, . . ."
(c) " . . . section 5, Chapter 1, Special Laws of December 2008, . . ."

**(4) Rules**

Official rules are occasionally cited in legislation.
(a) "Rule 4D, Montana Rules of Civil Procedure, . . ."
(b) "Rule 26(b)(4)(A) through (4)(C), Montana Rules of Civil Procedure, . . ."
(c) "Rule 202(b), Montana Rules of Evidence, . . ."
(d) "ARM 4.5.101 . . ."
(e) "Joint Rule 40-110 refers . . ."

**(5) Federal Materials**

Federal materials are occasionally cited in legislation.
(a) "18 U.S.C. 922" (no section symbol or word "section")
(b) "42 U.S.C. 409(b) and (d)"
(c) "Titles 10 and 32 of the United States Code"
(d) "42 U.S.C. 1396a(e)(2)(A)(ii) through (e)(2)(C)(x)"
(e) "42 U.S.C. 7401, et seq. (1988 & Supp. II 1990), . . ."
(f) "10 U.S.C. 672(a), (d), or (g), 10 U.S.C. 673, 10 U.S.C. 673b, . . ."
(g) "50 App. U.S.C. 460"
(h) "CERCLA, 42 U.S.C. 9601, et seq., . . ."
(i) "49 CFR, part 4, 301 and 302, federal class C, . . ."
(j) "42 CFR, part 441, subpart G, . . ."
(k) "21 CFR 103.31 and 23 CFR"
(l) "Subchapter V of the federal Clean Air Act"
(m) "Subchapter IV of the Social Security Act"
(n) "subchapter S. of the Internal Revenue Code"
(o) "section 125 of the Internal Revenue Code"
(p) "section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, . . ."
(q) "Public Law 100-485"

(r) "section 2 of Public Law 99-145"
(s) "authorized by Chapter 28, Subchapter IV, Part B, 20 U.S.C. 1071, et seq., Part C, 20 U.S.C. 1078aa, et seq., . . ."

**(6) Miscellaneous**

(a) "supreme court Order No. 86-223, dated . . ."
(b) "Initiative Measure No. 5"
(c) "House Bill No. 567, Laws of 1989, . . ." (old appropriation bills)
(d) "Cause No. CV-78-110-BLG-JDS (D. Mont.)"
(e) "2007 MT 206, 338 Mont. 541, 167 P.3d 886 (2007)"
(f) ". . . an opinion by the attorney general, issued on December 3, 2007, 52 A.G. Op. 4, held that . . ."

# FORM GUIDE

## Capitalization, Punctuation, and Abbreviation

**3-1. Capitalization.**

Capitalization rules for bill drafting represent an exception to standard usage. In drafting bills, capitalize as little as possible. Capitalization has no legal significance, and the lower case is easier to read and write.

Capitalization is clerically controlled, in accordance with the rules that follow, by the Legislative Services Division staff when bills are prepared for introduction.

(1) Capitalize the first word in a sentence. The first word in each subsection following a colon must also be capitalized if each item expresses a complete thought and follows a complete introductory sentence.

(2) Capitalize months and days of the week.

(3) Capitalize names of specific publications, such as "*North American Industry Classification System Manual*" or "*Survey of Current Business*".

(4) Capitalize "Montana" (but not "state") in "state of Montana". Capitalize "County" but not "city" in the name of a county or city, such as "Cascade County", "Cascade and Chouteau Counties", or "city of Missoula".

(5) Capitalize names of specific persons or places, such as "Charles Marion Russell", "Rocky Mountains", or "Sluice Boxes state park", and specific national regions, such as "Pacific Northwest". Capitalize "North American continent". Capitalize geographic names, such as Flathead Valley (but not "community college") in "Flathead Valley community college". Do not capitalize words that indicate state geographic locations, such as "northern Montana".

(6) Capitalize names of historic events, such as "World War II", and holidays, such as "Christmas Day" and "Lincoln's and Washington's Birthdays".

(7) Capitalize works of art according to Code style rules, e.g., "the statue by Robert Scriver entitled "symbol of the pros" and "the paintings entitled "farm girl", "the Bozeman trail", and "the Mullan road"".

(8) Capitalize references to a statute compilation, such as "MCA". Do not capitalize "the statutes", "the codes", or "the Montana constitution" unless the full and exact title is used (e.g., "The Constitution of the State of Montana"). Do not capitalize the words "chapter" or "section" when referring to the Code or the Constitution, but capitalize the name of a particular title in the Code, such as "Title 19"; the name of an article in the Constitution, such as "Article V, The Legislature"; and a chapter in the Session Laws, such as "Chapter 5, Laws of 2007". Also, capitalize and spell out such terms as "Montana Rules of Civil Procedure".

**Citation Examples**

*1. Code*
(a) " . . . as provided in Title 2, chapter 4, part 2, . . ."
(b) " . . . as provided in part 3 of this chapter . . ."
(c) " . . . as provided in 19-5-401 or 19-5-409(2) or (4) . . ."
(d) in resolutions or preambles, " . . . as provided in section 19-5-401, MCA, . . ."

*2. Constitution*
(a) in Code, " . . . as provided in Article X, sections 5 and 7, of the Montana constitution . . ."
(b) in Code, ". . . 5th and 14th amendments to the United States constitution . . ."
(c) in resolutions or preambles, " . . . as provided in Article IX, section 5, of the Montana Constitution . . ."

*3. Session Laws*
(a) "Chapter 5, Laws of 2007, . . ."
(b) " . . . section 2, Chapter 5, Laws of 2007, . . ."
(c) " . . . section 5, Chapter 1, Special Laws of December 2008, . . ."

*4. Rules*
(a) "Rule 4D, Montana Rules of Civil Procedure, . . ."
(b) "Rule 202(b), Montana Rules of Evidence, . . ."
(c) "ARM 4.5.101 . . ."

(9) Capitalize names of races, citizens, and languages, such as "the tribal councils of the respective Indian tribes", "Spanish", or "French".

(10) Capitalize words pertaining to deity, such as "Almighty God".

(11) Capitalize the name of a particular act, such as "Montana Major Facility Siting Act".

(12) Do not capitalize official titles of state, county, or municipal officers, agencies, or institutions, such as "governor", "department of transportation", "board of county commissioners", or "Montana state university-northern". The same style is used for officers, agencies, or institutions at the federal level, such as "president", "U.S. department of agriculture", "congress", or "supreme court", and for national organizations, such as "American red cross".

(13) Do not capitalize a class designation, such as "class one", unless it begins a sentence. However, this rule does not apply to railroad classifications, to hunting or fishing license classifications, or to state land

classifications, i.e., "Class III railroads", "Class A-1 fishing license", or "Class 1 land". (See section 3-14.)

(14) Do not capitalize "subchapter" or "section" when referring to the Internal Revenue Code, such as "subchapter S. of Chapter 1" or "section 985, Internal Revenue Code".

Because a resolution is usually a more formal document and because the resolution itself is presented or mailed to an agency or person and is not printed in the Code, standard capitalization rules are followed when drafting a resolution. Examples are "State of Montana", "Department of Agriculture", "Department", "Legislative Branch", "Montana University System", "Legislature", and "Montana Congressional Delegation".

## 3-2. Punctuation.

Punctuation generally is not considered part of a statute and therefore is subordinate to the text. However, courts do look to punctuation to ascertain meaning if the language is unclear. Therefore, in addition to striving for clear expression through the proper use of words, the drafter should employ correct punctuation to support the words and avoid ambiguity.

### (1) Comma

If a sentence consists of two independent clauses, each with subject and predicate, use a comma before the conjunction.

*example* The commission shall report annually to the governor, and it must have the report printed for public distribution.

An exception to this rule occurs when a sentence starts with a dependent clause that applies to both independent clauses that follow. No comma separates the independent clauses because it would make the introductory dependent clause seem to apply only to the first independent clause.

*example* If a conference committee fails to reach agreement or if its report is not adopted by both houses, the governor's recommendation is considered not approved and the bill is returned to the governor for further consideration.

Do not use a comma to separate two predicates joined by a coordinating conjunction.

*example* The commission shall report annually to the governor and must have the report printed for public distribution.

Set off a parenthetical phrase or clause with two commas.

*example* The report, which must be approved by a majority of the commission members, must be sent to the governor before July 1 of each year.

When "or" introduces a word or a phrase that identifies or explains the preceding word, set off the explanatory expression with commas.

*example* Set off parenthetical, or nonessential, elements with commas.

However, if "or" introduces an alternative thought, the expression is not parenthetical and should not be set off by commas.

*example* The punctuation depends on whether the item is parenthetical or essential.

Words, phrases, or clauses in a series are separated by commas.

*example* The department shall provide the board with reasonably necessary supplies, equipment, and clerical services.

A comma is used before the conjunction connecting the last two members of a series.

*example* . . . wheat, corn, barley, and rye.

When a series is followed by a verb or phrase that is unmistakably applicable to the entire series, a comma is incorrect after the last word of the series.

*correct* Wheat, cattle, timber, and coal are some of the state's major exports.

However, if there is ambiguity or danger of connecting only the last item of the series with what follows, rewrite the sentence to clarify the meaning.

*incorrect* The revenue generated by wheat, cattle, timber, and coal alone will account for the greatest portion of income.

*correct* The greatest portion of income will be derived from the revenue generated by wheat, cattle, timber, and coal.

*correct* The greatest portion of income will be derived from the revenue generated from the following sources:
(1) wheat;
(2) cattle;
(3) timber; and
(4) coal.

Do not set off an essential clause with a comma. An essential clause is one that is necessary to the meaning of the sentence and cannot be omitted.

*correct* Application must be made by July 1 if a permit is wanted.

*incorrect* Application must be made by July 1, if a permit is wanted.

*correct* An insurer may not disburse $100 or more unless a signed voucher is received.

*incorrect* An insurer may not disburse $100 or more, unless a signed voucher is received.

**(2) Semicolon**

Use a semicolon between two main clauses not joined by one of the simple coordinating conjunctions (and, but, or, nor).

*example* Letters and other private communications in writing belong to the person to whom they are addressed and delivered; however, they cannot be published against the will of the writer.

Also use a semicolon to separate two or more coordinate elements, one or both of which contain commas, when needed for clarity.

*example* The probation officer in each county shall assist the conciliation court; but the court, with the consent of both parties, may make independent investigations.

The presence of the coordinating conjunction "but" in the second example would permit the use of a comma to separate the two main clauses if there were no commas in the second clause.

Use a semicolon to separate coordinate elements in a series introduced by a colon when those elements are dependent clauses or phrases. (See example under "Colon" below.)

**(3) Colon**

A colon is used most often in legislative drafting to introduce a series, usually in outline form.

*example*

Each policy must contain:
(1) the names of the parties to the contract;
(2) the subject of the insurance; and
(3) the risks insured against.

A colon also may be used to introduce a long quotation.

**(4) Parentheses and Brackets**

Use commas in preference to parentheses when possible. However, occasionally parentheses will serve to clarify the meaning of a sentence.

*example*

Two or more counties may apply for funds for construction (and operation and maintenance when permitted) under [sections 4 and 5].

Do not use brackets as punctuation. Use brackets to enclose internal references, "this act", and effective dates. Also, brackets are used in the Code to denote erroneous material or material needing amendment or replacement.

**(5) Quotation Marks**

In American usage, printers usually place a period or comma inside closing quotation marks whether it belongs logically to the quoted matter or to the whole sentence or context. In bill drafting, clarity is more important than usual, so a period or a comma should be placed outside quotation marks if it does not belong to the quoted matter. In drafting, always use double quotes.

Do not overuse quotation marks. Generally, in legislative drafting, quotation marks are used only to enclose titles or texts of acts or laws referred to or incorporated by reference, to enclose defined words or phrases, or to enclose amended Code sections. In addition, quotation marks are used to enclose text following such terms as: entitled, the word, the term, marked, designated, classified, named, endorsed, cited as, referred to as, known as, or signed. Names of acts are not quoted in the title of a bill or resolution.

*example* (4) The state of Montana accepts and assents to the terms and provisions of the act of congress, approved May 8, 1914, entitled "An Act to Provide for Cooperative Agricultural Extension Work".

*example* A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "GAME" TO INCLUDE THE WOOLLY MAMMOTH."

*example* (7) "Game" means game animals and game birds, the killing of which is restricted by the laws of Montana.

*example* Section 1-1-218, MCA, is amended to read:
"**1-1-218. Words giving joint authority.** Words giving a joint authority to three or more public officers or other persons are construed as giving ~~such~~ the authority to a majority of them unless it is otherwise expressed in the ~~act~~ law giving the authority."

*example* A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA ADMINISTRATIVE PROCEDURE ACT TO INCLUDE . . . ."

**3-3. Abbreviation.**

Abbreviations are seldom used in legislative writing and should be avoided, except in two instances. "Montana Code Annotated" should be abbreviated to "MCA", and "1 p.m." is preferred to "1:00 o'clock p.m.". Do not add "MCA" to a Code section number within the text of a section of the Code. (See section 1-2-108(1), MCA, which provides that it is presumed that the section number refers to the Montana Code Annotated.)

## Numbers

**3-4. General.**

Numbers one through nine are spelled out, and numbers 10 and over are written in numerals. (However, note the exceptions in sections 3-5 through 3-16.) Numbers at the beginning of a sentence should be spelled out.

five, 22, 1,000, 1 million, 1.5 billion
Fifteen members serve on the committee.

**3-5. Money.**

6 mills, 0.02 cent, 0.1 cent (use for 1/10 of 1 cent), 0.5 cent, 1 cent,

1 1/2 cents, 25 cents, $1, $25, $37.50, $100, $2,000, $25,000, $1.25 million, $1.259 million, $3 million, $3.5 million

**3-6. Measurements.**

2 inches (feet, yards, meters, acres, etc.)
8 feet 2 inches
2 feet x 3 inches
15 x 30 feet (but a "15- by 30-foot room")
7.5 milligrams
1.5 liters
5 pounds (bushels, barrels, gallons, etc.)
3 ounces
3 acres (horsepower, etc.)
35 degrees F
1 megawatt-hour unit

**3-7. Age.**

6 years old
52 years, 10 months, 6 days
a 3-year-old child
65th birthday
"a person who is 18 years of age or older" (not "over 18 years of age")
"a person who is under 6 years of age"
"a person who is 18 years of age or older and under 66 years of age" (not "between the ages of 18 and 65")

**3-8. Time.**

3 days
5th and 20th day
2 weeks
1 month
2 1/2 months
3 fiscal years
2 bienniums
noon (not "12 noon")
midnight (not "12 midnight")
9 a.m. (not "9:00 a.m." or "9:00 o'clock a.m.")
1 p.m.
1:30 p.m.
half an hour

**3-9. Percentages.**

0.3%

3%, 25%
3/4 of 1%
1/2 of 1% or 0.5% (not "1/2%")
57.5%
2 percentage points

An irregular fraction should not be expressed as a decimal — 1/3 of 1% (not 0.333%) and 8 1/3% (not 8.333%).

In a bill title, spell out the word "percent" — do not use the symbol.

**3-10. Unit Modifiers.**

5-day week (measurement)
10-year sentence (measurement)
1-year term (measurement)
five-person board (not unit of measurement)
1-, 2-, and 3-year terms (but "term of 5 years")
four-wheel-drive vehicle
20-cent raise (but "$1 million limit")
4.0 cumulative grade point average

**3-11. Ordinals.**

First through ninth are spelled out; 10th and over are numerals. See also sections 3-13 and 3-14.

first term
fifth tax year
fourth amendment, 15th amendment
15th birthday
35th day

**3-12. Fractions.**

Fractions standing alone or followed by "of a" or "of an" are spelled out, such as "one-half day", "one fifty-sixth", or "three-fourths of an inch". Mixed fractions are written in numerals, such as "2 1/2 times". (This rule holds true even in measurements, but see exception under "Percentages" in section 3-9.)

In a unit modifier, use figures, such as "1/2-inch pipe" or "3/4-ton truck" (in other words, no double hyphen).

**3-13. Numbers in Series.**

Figures are used in a group of two or more numbers when any one is 10 or greater: "The farm has 3 cows and 12 sheep."

**3-14. Classes, Grades, Etc.**

property tax classification — class one, class twelve
milk control — class III
hazardous waste management facility — class III
mustard seed — class 2, No. 3
noxious weed — class I
oranges — United States No. 2 grade
handicapped levels — Level I—a pupil
compensation plan No. 2
school grades are expressed: "1st grade", "2nd grade", "12th grade"
dams — class C
hunting and trapping licenses — Class A-6, Class C-2
fishing license — Class A, Class B-4
railroads — Class III
state lands — Class 4

**3-15. Dates — Fiscal Years.**

Dates should be expressed as follows:

December 31 (not "December 31st" or "31st day of December")
December 31, 2010, (with comma following year in a complete date, unless at the end of a sentence)
December 2010
October, November, and December 2010
2010-11

A period of time is often expressed as follows:

"For the period beginning July 1, 2009, and ending June 30, 2010, . . ."
"For the fiscal year ending June 30, 2010, . . ."
"For the biennium beginning July 1, 2009, and ending June 30, 2011, . . ."
"For the 2011 biennium . . ."
"For fiscal years 2010 and 2011, . . ."
"For school fiscal years beginning on or after July 1, 2010, . . ."

An effective date of July 1 should be expressed as follows: "after June 30, 2009" or "effective July 1, 2009". ("From July 1, 2009", "after July 1", or "between July 1 and" might be construed to mean a beginning date of July 2 and should be avoided.)

It is better to refer to a day rather than to the time that an event will occur, such as "90 days after the day on which judgment is entered", not

"90 days after the time . . .". Usually, a period is measured in whole days, not the time of day.

**3-16. Bill Titles and Catchlines.**

In bill titles, follow the above rules. In catchlines, do not use figures; spell out numbers unless it is a date or a very large number. Words look better than numbers in boldface.

# THE BILL AND ITS PARTS

## 4-1. Introduction.

A bill is a proposed law as introduced in the Legislature. The bill does not become a law (an "act"or "statute") until passed by the Legislature and signed by the Governor or passed over the Governor's veto. If the Governor does not sign or veto a bill within 10 days after receiving it, it becomes a law without signature.

A bill that has become a law is delivered to the Secretary of State, who assigns a chapter number to it in the order that the bill is received by that office. All laws that pass in any one legislative session are first published in the order of passage in a publication entitled *Laws of Montana* (Year). This publication is referred to as the Session Laws. All permanent new provisions are assigned Code section numbers by the Code Commissioner's staff and are incorporated into the Montana Code Annotated.

The proper form and arrangement of a bill have been defined primarily by custom. The Montana Constitution speaks of bill titles in Article V, section 11; section 5-4-101, MCA, prescribes the form of the enacting clause. None of the other bill parts are mandated by law or rule. However, the following form is now used by the Legislative Services Division. By legislative rule, all bills, before they are introduced, must comply with the format, style, and legal form prescribed by the Legislative Services Division. Bills not prepared by the Legislative Services Division staff must be reviewed by that staff and entered on the automated bill drafting system before introduction; this system and procedure are further explained in Chapter 10.

## 4-2. Bill Arrangement.

(* a mandatory part of a bill)

1. Bill Identification*
   (a) bill draft number
   (b) House or Senate designation and number
   (c) sponsor line
   (d) "By Request . . ." line
2. Title*
3. Preamble
4. Enacting Clause*
5. Body*

Codified
   (a) short title

(b) purpose section
(c) definitions
(d) basic provisions
(e) penalty

Noncodified
(f) repealer
(g) transfer of funds
(h) appropriation
(i) unfunded mandate laws superseded
(j) transition
(k) notification to tribal governments
(l) directions to code commissioner
(m) codification instruction
(n) coordination instruction
(o) saving clause
(p) severability clause or
nonseverability clause
(q) extraordinary vote required
(r) contingent voidness
(s) effective date
(t) applicability
(u) termination

**Explanation of Bill Parts**
(See Appendix P for form.)

## 4-3. Bill Identification.

**(1) Bill Draft Number**

The number appearing at the top right-hand corner of a bill, such as "LC 0001.01", is the number assigned by the Legislative Services Division staff as the bill request is received. The LC number is used to identify the bill during the drafting process prior to the time of introduction and assignment of a bill number.

**(2) Designation and Number**

The blank preceding the words "BILL NO." is used to identify the bill as a House or Senate bill, and the blank following is used to number the bill. The blanks are filled in manually by the Chief Clerk of the House or Secretary of the Senate at the time of introduction.

**(3) Sponsor Line**

The second line of a bill is used to identify the sponsor. The sponsor signs the bill prior to introduction. If there is more than one sponsor, the chief sponsor signs first. Bills may be sponsored jointly by a Senate and a House member. Both of these members are considered a "chief sponsor" for the jointly sponsored bill. If the bill is introduced in the Senate, it becomes a Senate bill and the Senate chief sponsor signs first. This procedure is reversed if the bill is introduced in the House.

**(4) By Request Line**

Joint Rule 40-40 provides that if a bill is proposed by a legislative committee or is introduced by request of a state agency, that fact must be indicated by inserting "By Request of the _____" after the names of the sponsors.

61st Legislature LC 0001.01

_____BILL NO.____

INTRODUCED BY _____

BY REQUEST OF THE _____

**4-4. Title.**

**(1) General**

The title identifies the bill to the legislators and the public and must clearly summarize the contents of the bill. The drafter should be familiar with the substantial body of case law that has developed over defects in titles.

Article V, section 11(3), of the Montana Constitution provides:

> Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.

The main purpose of the constitutional provision is to ensure that the title of a bill gives reasonable notice of the content to legislators and the public. It also prevents multisubject legislation from being passed by the combined votes of the advocates of separate measures when no single measure could be passed on its own merits. The Montana Supreme Court

has interpreted this provision to require a clause in the title to reflect an issue that would be considered important by legislators voting on the bill. *White v. St.*, 233 M 81, 759 P2d 971 (1988).

Title challenges under this section of the Constitution may be brought on the grounds that either the title or the body of the bill indicates that the bill contains more than one subject or the title does not clearly express the subject of the bill, or both.

The Montana Supreme Court has considered the question of sufficiency of title numerous times. In order to more fully comprehend title drafting problems, the drafter should read the cases cited in this section or at least review the case notes and Attorney General's opinions contained in the MCA Annotations to Article V, section 11, of the Montana Constitution. Under the 1972 Constitution, if a law is challenged as having a defective title, the action must be brought within 2 years after the effective date of the law.

**(2) Exceptions to Sufficiency of Title Provision**

As stated in Article V, section 11(3), of the Montana Constitution, general appropriation bills and bills for the codification and general revision of the laws are exempt from the unity of subject and clear expression of subject rules.

**(3) General Appropriation Bills**

In order to fall within the exception referred to in (2), an appropriation bill must be a general appropriation bill; that is, it may embrace nothing but appropriations for "the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools". (See Article V, section 11(4), of the Montana Constitution.) Further, an incidental provision in an appropriation bill must be germane to the appropriation if it is to fall within the exception. The Supreme Court has held that provisions relating to the expenditure of the money appropriated or its accounting may be included in an appropriation bill without being mentioned in the title (*State ex rel. Davidson v. Ford*, 115 M 165, 171, 141 P2d 373 (1943)). However, in *Helena v. Omholt*, 155 M 212, 468 P2d 764 (1970), the Supreme Court said, ". . . appropriation bills should not be held to amend substantive statutes by implication. . . . Such tactics are recognized as exceedingly bad legislative practice." (The appropriation bill in question contained a section that was irreconcilable with an existing statute, and the lower court had held that the appropriation measure, being a later bill, impliedly repealed the earlier statute.) The Attorney General relied on Helena v. Omholt in finding that a provision in the 1981 general appropriations act should not be given effect because it was in conflict with a permanent substantive statute. Therefore, provisions other than actual

appropriations should be included in a general appropriation bill only if germane to expenditure or accounting and consistent with permanent substantive law.

**(4) General Revision**

In *State ex rel. Cotter v. District Court*, 49 M 146, 150, 140 P 732 (1914), the Supreme Court said that a bill whose plain purpose was to revise the laws on a particular subject, as well as an omnibus revision bill covering many subjects, is within the revision exception.

In the past, the Supreme Court has found that certain bills come within the general revision exception although the titles do not specifically designate the bills as such. To date, the Supreme Court has always found a bill within the exception when the title indicated that the bill was a general revision.

If a bill is intended to be a general revision, the title should so state.

*example* "AN ACT GENERALLY REVISING THE LAWS RELATING TO PUBLIC SCHOOLS; AMENDING . . . ."

**(5) Including List of Amended or Repealed Sections in Title**

There is diversity of opinion as to whether reference by number only to a Code section to be amended or repealed is sufficient in a title. However, all authorities agree that the title is sufficient if the number of the section to be amended or repealed and an indication of the subject matter of the amendment or repeal are included in the title. "Reference in the title of the amendatory Act to the subject matter of the section to be amended need not be so comprehensive as to constitute a complete index to or abstract of the section. 'All that is required in such case is a reasonable degree of certainty as to the statute to be amended.'" (See *St. v. Duncan*, 74 M 428, 437, 240 P 978 (1925).)

Therefore, the title of a bill should both indicate the general purpose of the amendment and list the Code sections amended or repealed. The section numbers must be listed in numerical order.

*example* "AN ACT AMENDING THE LAWS RELATING TO THE SALE OF LANDS FOR TAXES BY COUNTY TREASURERS; AMENDING SECTIONS 8-1-101 AND 8-1-102, MCA; AND REPEALING SECTIONS 8-1-109 AND 8-1-110, MCA."

If the only purpose of a bill is to repeal one or more sections, the title should indicate the subject matter and list the section numbers.

*example* "AN ACT DELETING THE DEFINITION OF "REGISTERED MAIL"; AND REPEALING SECTION 1-1-202, MCA."

**(6) Appropriation in Title**

In *Hill v. Rae*, 52 M 378, 158 P 826 (1916), the Supreme Court held that when an appropriation is incidental to the larger single subject of legislation, it need not be made by separate bill. In order to facilitate legislative handling of appropriations, it is necessary to mention the appropriation in the title. If a bill is a statutory appropriation (section 17-7-502, MCA), that fact must also be included in the title.

**(7) Including Effective Dates in Title**

It is necessary to include effective dates, other than October 1, in the title, such as:

PROVIDING AN EFFECTIVE DATE

*or*

PROVIDING EFFECTIVE DATES

*or*

PROVIDING AN IMMEDIATE EFFECTIVE DATE

*or*

PROVIDING A DELAYED EFFECTIVE DATE

*or*

PROVIDING A CONTINGENT EFFECTIVE DATE

If a specific effective date is not provided, an appropriation law becomes effective on July 1 following passage and approval. A statute providing for the taxation or imposition of a fee on motor vehicles becomes effective on January 1 following passage and approval unless a different effective date is specified. All other statutes take effect on October 1. Delayed and contingent effective dates should be used only in extraordinary circumstances.

**(8) Short Bill Title**

One of the main ways to identify a bill, in addition to the bill number itself, is the short bill title. The short bill title is limited to a length of 80 characters (letters, hyphens, and spaces between words). The short bill title almost always accompanies the bill number when information about bills is displayed either in reports or by online applications, such as the LAWS (Legislative Automated Workflow System) Internet application.

For example, the short bill title accompanies the bill number when bills are listed on the Senate and House agendas, on the hearing calendars published in the newspapers, and on the daily status reports. Virtually every online listing of bills on the LAWS Internet application includes the short bill title for clarification.

The short bill title is originally written by the Legal Services Director when a bill draft request is first entered on the online LAWS system. When the assigned drafter completes an initial bill draft, the drafter uses a macro (discussed elsewhere in this manual) to update the LAWS system with a revised short bill title and other information, if necessary. The macro will not allow the user to type more than 80 characters in the short bill title field.

The short bill title typically begins with an active verb, such as "Revise", "Establish", "Provide", "Allow", "Remove", "Extend", etc., or with a qualifying adverb, such as "Generally Revise". It may include abbreviations. The short bill title does not include the formal bill title introduction ("A BILL FOR AN ACT ENTITLED: "AN ACT . . ."") or a listing of the sections amended or repealed.

## 4-5. Preamble.

The preamble, which is optional, follows the title and precedes the enacting clause. Because of its placement, it is not part of the text of the act and does not become a part of the law. It is a preliminary statement of the reasons for the enactment of the law and begins with the word "WHEREAS". A preamble may be used as an extrinsic aid in construing a law.

*example* WHEREAS, the Montana Constitution requires that all executive and administrative offices and instrumentalities of the Executive Branch of state government be allocated by law among not more than 20 departments . . . .

(See section 4-8 for discussion of purpose sections.)

**4-6. Enacting Clause.**

The enacting clause, which is prescribed by law, separates the identification portion of the bill from the body of the bill.

*example* BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**4-7. Short Title.**

A short title is not suitable for all enactments; however, if an act creates new law in a definable area, a short title enables quick future identification. Do not include a year in the short title.

*example* NEW SECTION. **Section 1. Short title.** [Sections 1 through 17] may be cited as the "Reclamation and Development Grants Program Act".

**4-8. Purpose Section.**

Courts have relied on purpose sections to construe unclear and ambiguous language. Of course, clear and unambiguous language is always preferable to reliance on a purpose section. A well-drafted act should not require an extraneous statement to recite reasons for its enactment or what it seeks to accomplish. However, occasionally it is necessary to express the reason prompting enactment or the policy or purpose of an act. A good example is when the statute imposes a burden on a particular class of persons, thus requiring at least a rational basis for treating them differently from other persons. In *Oberg v. Billings*, 207 M 277, 674 P2d 494 (1983), the Montana Supreme Court stated that "While the courts are seldom concerned with the wisdom of legislation, the purpose of the legislation is of vital concern where the constitutionality of a statute is challenged as a denial of equal protection." If a purpose section is preferred to a preamble, it becomes a part of the law. The purpose should be stated concisely at the beginning of the bill following the enacting clause (or short title, if there is one). If a purpose section is necessary, it should be carefully and thoughtfully drafted.

**4-9. Definitions.**

(1) To avoid repetition and to ensure clarity, a well-drafted bill often contains a definition section that precedes the basic provisions of the bill. A definition section is of definite advantage to:

(a) define a general term in order to avoid its frequent repetition, such as ""Employee deductions" means all authorized deductions made from the salary and wages of an officer or employee of a state agency.";

(b) avoid repeating the full title of an officer or of an agency, such as ""Board" means the board of environmental review.";

(c) give an exact meaning to a word that has several dictionary meanings;

(d) define a technical word that has no popular meaning in commonly understood language; and

(e) limit the meaning of a term that, if not defined, would have a broader meaning than intended.

(2) (a) Do not define a word if it is used in the sense of its ordinary dictionary meaning.

(b) Certain words are defined in Title 1, chapter 1, MCA. If a word is used in the same sense as it is defined in that chapter, it is unnecessary to define it again in a bill. There are also definition sections that apply to entire titles, such as section 45-2-101, MCA (Criminal Code), or to several chapters, such as section 72-1-103, MCA (Probate Code).

(c) Section 1-2-107, MCA, provides: "Whenever the meaning of a word or phrase is defined in any part of this code, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears." A drafter may wish to preclude the effect of section 1-2-107, MCA, by stating a "contrary intention" through such language as "For purposes of this part [chapter, title] only, the following definitions apply:".

(3) The drafter should adhere scrupulously to normal usage of a term. If it is necessary to use a fiction, it should be so labeled.

*Do not say:* The word "automobile" includes trucks, power boats, and airplanes.

*Say:* In this chapter, trucks, power boats, and airplanes are treated as if they were automobiles.

(4) Definitions must be arranged alphabetically.

(5) Do not include substantive provisions in definition sections.

(6) After a word is defined, use the defined word, not the description or a synonym.

(7) If there are definitions already in the Code that you want to apply to your bill, draft a provision so stating (e.g., "mental disorder, as defined in 53-21-102". Don't refer to the subsection in which the definition is contained, such as "53-21-102(9)", because definition sections are always in alphabetical order and subsection numbers are often affected by amendment.). If appropriate, draft a codification instruction incorporating the new act into the chapter or part of the Code where the definitions are

already contained. Do not repeat the definitions. (See discussion in section 4-19.)

(8) Do not define a word that is never used in the bill!

*example*

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 12], the following definitions apply:

(1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

(2) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(3) "Person" means an individual, association, partnership, corporation, or estate or any other entity.

**4-10. Basic Provisions.**

A bill that only amends or repeals existing laws may not present any organizational problem; sections of the Montana Code Annotated are amended in numerical order. However, an act that creates a new body of law must be thoughtfully organized. From the standpoint of organization, bills containing all new material are of three types. These bills may contain:

(1) one main provision supported by subordinate provisions;

(2) several related main provisions, some of which have subordinate provisions; or

(3) a series of related and equal provisions all dealing with one subject.

**(1) One Main Provision**

Most new legislation is concerned with just one main idea and falls within the first type. Generally, the substantive provisions of an act (Section 4 in the example below) will be followed by the authority that is to administer it and then by the means to make it effective (Sections 5 and 6 in the example below).

*example*

NEW SECTION. **Section 4. Registration of tramways required.** A passenger tramway may not be operated in this state unless it is registered with the board . . . .

NEW SECTION. **Section 5. Powers and duties of board.** The board shall:

(1) adopt rules to implement the provisions of [sections 1 through 12];

(2) hold hearings relating to the granting, suspension, or revocation of the registration; and

(3) grant registration and issue registration certificates to applicants who have complied with [sections 1 through 12] and rules adopted under [sections 1 through 12].

NEW SECTION. **Section 6. Remedies to enforce compliance.** If an operator fails to comply with an order or rule of the board, the board may:

(1) suspend or revoke the registration of the tramway . . . ;

(2) bring injunctive proceedings . . . .

Do not include unnecessary procedural provisions that are already contained in the Montana Administrative Procedure Act, the Administrative Rules of Montana, or court rules.

**(2) Several Related Main Provisions**

Each main provision with its related subordinate divisions should be separate from the other main provisions and drafted in detail as if it constituted the entire bill.

**(3) Series of Related and Equal Provisions**

Bills containing equal provisions relating to a common subject are arranged in a logical order.

**4-11. New Material — Catchlines.**

Provisions used to create new law in an area not covered by present statutes are referred to as "new material". The basic provisions of a new law should be divided into sections, each of which contains one idea or thought.

Each section must begin with a boldfaced caption or "catchline". With the exception of the Uniform Commercial Code, catchlines are not part of the law. (See sections 1-11-103 and 30-1-109, MCA.) In the past, catchlines usually were added by the codifier, but the present rule is to add a catchline during the drafting process for convenience and readability. (If a bill is enacted without catchlines, the Code Commissioner's staff will add the catchlines when the new sections are codified.) The catchline should be as brief as possible and clearly show what the section topic is. If the drafter feels that the catchline must be quite long to cover the meaning of the section, the section itself is probably too broad. If more than one thought is set forth in a catchline, each thought is separated by a dash (—). The catchline should not be a complete sentence.

New sections in a bill are generally placed in the order that they will appear when codified. If the bill also contains amended sections, new sections that will be codified in Title 15, chapter 65, MCA, for example,

would be placed after the amended sections in Title 15, chapter 65, MCA, and before the amended sections in Title 20, chapter 9, MCA.

In new material, internal references to other sections of the bill that are new sections should be bracketed. The Code Commissioner's staff will insert the proper Code section number before the Code is printed. (See section 4-19 for discussion of how the placement of new material in the Code is determined.)

*example*

NEW SECTION. **Section 4. Department head — appointment — powers and duties.** (1) The governor shall appoint each department head.

(2) Each department head shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the department in accordance with 86-1-101, 86-1-102, and [section 20].

**4-12. Amendatory Material.**

Sections of a bill amending present law are arranged in numerical order by Code section number. There must be a separate bill section for each Code section amended. The Code sections must be from the most current version of the Montana Code Annotated. The brief, simple amending clause must be used. ("Section ____ , MCA, is amended to read:") The Joint Rules provide: "In a section amending an existing statute, matter to be stricken out must be indicated with a line through the words or part to be deleted, and new matter must be underlined." (See Joint Rule 10-130.) This means that new material added to an existing Code section is underlined; new material that will become an entirely new Code section is not underlined and is designated "NEW SECTION".

*example*

**Section 5.** Section 2-17-301, MCA, is amended to read: "**2-17-301. Supervision of mailing facilities.** The ~~controller~~ department shall maintain and supervise any central mailing facilities."

The Joint Rules also provide: "A statute may not be amended or its provisions extended by reference to its title only, but the statute section that is amended or extended must be reproduced or published at length." (See Joint Rule 40-80.) The question of whether a subsection may be amended without setting out the entire parent section at length has never been adjudicated in Montana. (Ease of amendment is just one more reason for dividing new law into short, concise sections.) The computerized updating of the statute database requires that an entire section be amended, not just a subsection. As noted earlier, all bills not prepared by the Legislative

Services Division staff must be reviewed by the staff and entered on the automated bill drafting system before introduction. The Legislative Services Division staff prefers that all bills be submitted for review in the manner described in section 1-6.

If it is necessary to amend Session Laws, the drafter must refer to the session law chapter number. (See Appendix E for examples of bills amending Session Laws.)

The Secretary of State assigns chapter numbers to the laws after they are signed by the Governor. (See section 5-11-204, MCA.)

**4-13. Designating New Sections.**

Any section that does not amend Code, Session Laws, the Constitution, or Administrative Rules of Montana must be designated "NEW SECTION". This designation includes noncodified sections, such as repealers and effective dates, and sections in bills containing all new material.

**4-14. Name Change Amendments.**

When a name change is made in a bill, the drafter must search the MCA for that term. (See Appendix S.) Each section that contains an occurrence of the term must be amended in the bill to reflect the name change.

Also, a section must be included in the bill that directs the Code Commissioner to make the name change wherever a reference to the term appears in legislation that is enacted or amended by the 2009 Legislature.

*example*

NEW SECTION. **Section 10. Name change — directions to code commissioner.** Wherever a reference to a county welfare office appears in legislation enacted by the 2009 legislature, the code commissioner is directed to change it to a reference to a local office of public assistance.

**4-15. Outline Style.**

There is no rule fixing the length of a section. Generally, a section should include only a single idea. The shorter the section, the more quickly it may be understood and the easier it is to amend if amendment is needed. If the drafter finds it difficult to phrase a brief catchline for the section, it is likely that there are too many ideas in the section. Each paragraph in a bill must be given a section or subsection designation. Outline order for subsections is as follows:

(1) If (1) is used, there must be a (2).
(2)
(3)

(a) If (a) is used, there must be a (b).
(b)
(c)
(i) If (i) is used, there must be a (ii).
(ii)
(iii)
(A) If (A) is used, there must be a (B).
(B)
(C)
(I) If (I) is used, there must be a (II).
(II)
(III)
(4)

Only the second-to-last item of a series should have an "and" or an "or" (e.g., (a), (b), or (c)).

Sections or subsections are indented except when the (1) follows the catchline. If there is a lead-in phrase or sentence that ends with a colon and is followed by a (1), that (1) is indented.

*example*

**22-1-101. Duties of board.** (1) The board shall adopt rules relating to public safety . . . .

(2) The board shall hold hearings . . . .

*example*

**22-1-101. Duties of board.** The board, under the provisions of 15-2-102, shall:

(1) adopt rules relating to public safety;
(2) hold hearings; and
(3) arrange all meetings.

When a complete sentence follows a dependent clause within a subsection, the dependent clause and the sentence end with periods.

*example*

The board shall:

(1) adopt rules relating to public safety;
(2) hold hearings. The hearings may not be longer than 1 hour in duration.
(3) arrange all meetings.

Note that when a sentence is added to the next-to-last outline designation, the coordinating conjunction ("and" or "or") is lost. The drafter may wish to insert language in the lead-in to specify that "any" or "all" of

the following outline designations apply or may wish to reorder the outline designations to keep the coordinating conjunction.

If material preceding a colon is a complete thought and each of a numbered (and indented) series can stand alone, the first letter is capitalized and the sentence ends with a period. Otherwise, the first letter is in lowercase and the sentence ends with a semicolon; if some but not all of the first letters must be capitalized (for instance, "Montana"), try to rearrange those phrases so that they begin with a lowercase word.

*example*

**4-1-101. Definitions.** As used in this part, the following definitions apply:

(1) "Bonds" includes all instruments representing indebtedness, the borrowing of money, or a charge on specific revenue.

(2) "Public body" means any political or governmental subdivision of the state.

*example*

**4-1-101. Budget amendment.** An approved budget amendment is an approval by the budget director of a request submitted through the budget division to:

(1) obtain financing;

(2) transfer excess funds; or

(3) increase the appropriation.

If possible, include all identical language in the section in the lead-in phrase before the colon. Do not repeat it in each subsection.

*Avoid repetitious language, as in (1)(a) through (1)(c) and (2)(a) and (2)(b):*

**17-7-201. Building and construction defined.** In this part, the following definitions apply:

(1)"Building" includes a:

(a) building, facility, or structure constructed or purchased wholly or in part with state money;

(b) building, facility, or structure at a state institution; or

(c) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.

(2) Building does not include a:

(a) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district; or

(b) building, facility, or structure used as a component part of a highway or water conservation project.

(3) "Construction" includes construction, repair, alteration, and equipping and furnishing during construction, repair, or alteration.

*Preferred:*

**17-7-201. Building and construction defined.** In this part, the following definitions apply:

(1) (a) "Building" includes a building, facility, or structure:

(i) constructed or purchased wholly or in part with state money;

(ii) at a state institution; or

(iii) owned or to be owned by a state agency, including the department of transportation.

(b) Building does not include a building, facility, or structure:

(i) owned or to be owned by a county, city, town, school district, or special improvement district; or

(ii) used as a component part of a highway or water conservation project.

(2) "Construction" includes construction, repair, alteration, and equipping and furnishing during construction, repair, or alteration.

Be extremely careful when inserting subsections. Often a meaning can be altered substantially if subsection numbers are carelessly inserted. See the following example. The mathematical computation is entirely different in the two versions.

*Wrong:*

The holder may charge an amount equal to the difference between:

(1) the refund required under 31-1-242; and

(2) the refund required for payment in full as of 1 month prior to the due date times the number of months in which no payment was made.

*Right:*

The holder may charge an amount determined as follows:

(1) Calculate the difference between:

(a) the refund required under 31-1-242; and

(b) the refund required for payment in full as of 1 month prior to the due date.

(2) Multiply the difference by the number of months in which no payment was made.

**4-16. Penalty.**

If a violation of an act is to result in a penalty, a separate section is devoted to setting forth the penalty. The wording of this section is patterned after that used in the Montana Criminal Code of 1973.

*example*

NEW SECTION. **Section 8. Penalty.** A person convicted of violating 1-1-101 shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

The traditional language in the above example provides an exception to the "shall/must" rule stated in section 2-5.

**4-17. Repealer.**

It may be necessary to repeal one or more statutes that conflict with a new act. Each statute to be repealed must be identified and listed separately. If an entire chapter or part is to be repealed, list the sections separately but do not include reserved sections. Do not say "chapter 7 is repealed" because this implies that no future law may be codified in chapter 7.

A statement that "all acts or parts of acts in conflict herewith are repealed" is improper and ineffective.

Whenever a bill repealing a section is drafted, the same bill must amend any other section in the Code containing a reference to the section being repealed. (See the discussion of the online internal reference list in section 1-8.)

*example*

NEW SECTION. **Section 9. Repealer.** Sections 1-1-101, 1-1-102, 1-1-103, 1-1-104, and 3-4-102, MCA, are repealed.

A repealer section may also repeal session law, such as termination sections and not yet effective repealer sections, from previous sessions. For example, if substantive law was to terminate after a certain period of time, the law can be made permanent by repealing the termination section of the act.

*example*

NEW SECTION. **Section 9. Repealer.** Section 4, Chapter 568, Laws of 2003, is repealed.

The above example repeals section 4, which was a termination section.

If a section that was to terminate is amended in the bill draft that repeals the termination provision, the "garbage", i.e., the parenthetical material at the beginning and end of the section, must be stricken. If the section has two versions, the "garbage" is stricken from the temporary version and the second version is stricken in its entirety to reflect the repeal of the termination provision.

**4-18. Transition.**

A transition section sets out provisions for the orderly implementation of legislation. Such a section can help avoid problems that may result from an abrupt change in law. A transition section usually has a continuing effect for a temporary period of time. A transition section is not codified.

*example* NEW SECTION. **Section 10. Transition**. For property tax purposes, mill levies imposed in 2008 on bentonite production occurring in tax year 2007 for fiscal year 2009 are generally payable in November 2008 and May 2009.

*or*

*example* NEW SECTION. **Section 10. Transition.** A general powers local government that is imposing impact fees adopted on or before [the effective date of this act] shall bring those fees into compliance with [this act] by October 1, 2010.

**4-19. Code Placement and Applicability — Codification Instruction — Directions to Code Commissioner.**

**(1) Placement**

The drafter is cautioned not to assign Code section numbers to new material or to renumber existing Code sections because of the possibility of the same number being assigned to more than one section and because logical placement cannot be determined until all of the legislation passed during a session is studied as a whole. However, the drafter may propose placement of the law and express this intent by attaching a "Suggested Assignment of Statute Numbers" form ("strawberry sheet") to the bill draft. (See Appendix Q.)

It may be necessary to express this intent in the bill itself in a section giving instructions to the Code Commissioner to codify the section in a given chapter or part. (See discussion and example below.)

**(2) Applicability**

Often it is not enough merely to suggest where a section should be codified. In many instances, it is vital that the drafter express the intent to apply present law to the new law.

For example, let us assume that the drafter is drafting a bill that relates to a chapter of the Code that is arranged as follows:

**CHAPTER 1**
**HAZARDOUS WASTE AGENCY**

**Part 1 — General Provisions**

1-1-101. Definitions.
1-1-102. Rulemaking authorized.
1-1-103. Injunction authorized.
1-1-104. Penalties.

**Part 2 — Certificates and Permits**

1-1-201. Certificate or permit required.
1-1-202. Application.
1-1-203 through 1-1-206 reserved.
1-1-207. Hearings.
1-1-208. Appeals.

The drafter's bill is concerned with findings necessary for issuance of a certificate. After studying chapter 1 carefully, the drafter determines that the one-section bill should be codified as 1-1-203. However, in order to so codify the section, the Code Commissioner may be forced to make additional changes in several sections unless the bill itself shows an intent to incorporate the new law into the present law.

For instance, if in the hypothetical chapter, 1-1-101 (Definitions) or 1-1-104 (Penalties) contains language such as "as used in this chapter, the following definitions apply" or "Violation of this chapter is a misdemeanor", it could be an error to insert new law into the chapter without excepting it from the definition and penalty sections. Therefore, the Code Commissioner would be required to add excepting language. Mere placement would appear to apply the definitions and penalties to the new section when the Legislature had not expressed an intent that they apply.

If the intent is to have the definitions and penalties apply, the drafter must insert a section in the bill to indicate this intent. (See example below.)

**(3) Codification Instruction**

Present law may by reference be incorporated into a bill by use of a codification instruction. To avoid repeating definitions, rulemaking authority, penalties, other substantive law, etc., and to ensure that an established body of law with its previously construed terms will apply to new law, a codification instruction is essential. However, if a codification instruction indicates the title, chapter, and part in which new law is to be codified but does not state that the provisions of that title, chapter, and part are to apply to the new law, then it is implied that the drafter's intent is that present law not be incorporated into the new law. This type of codification instruction should be avoided.

Whenever a bill contains new sections, either a codification instruction should be included in the draft or a "Suggested Assignment of Statute Numbers" form ("strawberry sheet") should be attached, whichever is appropriate.

*example*

NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 2, chapter 6, part 7, and the provisions of Title 2, chapter 6, part 7, apply to [sections 1 through 5].

In rare instances, directions to the Code Commissioner may also be used to effect renumbering and reintegrating of Code sections into a different chapter or part of the Code.

*example*

NEW SECTION. **Section 13. Directions to code commissioner.** Sections 20-25-901, 20-25-902, and 20-25-903 are intended to be renumbered and codified as an integral part of Title 19, chapter 4.

**4-20. Coordination Instruction.**

Frequently, the Legislature considers two bills that conflict with each other. To determine whether there is an introduced bill that conflicts with a current drafting project, a bill drafter may consult the status report on Code sections affected. The Legislative Services Division also makes available a sections amended list, arranged numerically according to MCA number, of all MCA sections proposed for amendment and the bills amending them. After the 2007 session, the Code Commissioner's staff prepared 238 composite sections for the MCA. Multiple amendments to the same section do not usually represent a conflict; however, most conflicts that do occur arise from such multiple amendments. Assuming that other means are not available to resolve conflicts (e.g., negotiation between the requester and the sponsor of the other bill), a coordination

instruction may be necessary. A typical coordination instruction will void the conflicting provision in the draft bill if the other bill is passed and approved with the troublesome provision intact.

*example*

COORDINATION SECTION. **Section 14. Coordination instruction.** If ___ Bill No. ___ [LC 200] is passed and approved and if it includes a section that amends 1-1-101, then [section 1 of this act], amending 1-1-101, is void.

If a conflict requires the amendment or inclusion of more than one section, each amended MCA section or new section must be contained in a separate coordination section in a bill.

*example*

COORDINATION SECTION. **Section 14. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either contains a section that amends 19-8-502, then the sections amending 19-8-502 are void and 19-8-502 must be amended as follows:

"**19-8-502. Member's contribution.** (1) . . . ."

COORDINATION SECTION. **Section 15. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either contains a section that amends 19-8-504, then the sections amending 19-8-504 are void and 19-8-504 must be amended as follows:

"**19-8-504. State employer's contribution.** Each month . . . ."

COORDINATION SECTION. **Section 16. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved, then [section 5 of this act] must be amended as follows:

"NEW SECTION. **Section 5. Payment of contributions.** The board shall prescribe . . . ."

## 4-21. Saving Clause.

Because normally it is presumed that changes in the law are in full force from the effective date, new laws often could disrupt transactions already in progress. The saving clause preserves rights and duties that already have matured or proceedings already begun.

*example* NEW SECTION. **Section 15. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

If a criminal statute is repealed, unless the act itself contains language to the contrary, section 1-2-205, MCA, applies. It provides that the repeal of a law creating a crime does not bar prosecution for or punishment of an act already committed in violation of that law.

Another method of preserving rights and duties that have matured is to choose a date upon which the persons coming within the act must comply with its operative provision.

*example* NEW SECTION. **Section 15. Grandfather clause.** A certificate is not required under [section 10] for any facility under construction or in operation on or before December 31, 2009.

**4-22. Severability Clause.**

If a statute is found to be unconstitutional or invalid in part, the court must decide if the invalid portion is severable from the valid portion and looks to legislative intent. The Montana Supreme Court has held that inclusion of a severability clause in a bill creates a presumption that the valid portions of a bill would have been enacted without the invalid portions (*Bacus v. Lake County*, 138 M 69, 354 P2d 1056, 1083 (1960), and *Sheehy v. Pub. Employees Retirement Div.*, 262 M 129, 864 P2d 762 (1993)) and thus only the invalid portions are voidable. (See, however, *White v. St.*, 233 M 81, 759 P2d 971 (1988), and Judge Rapkoch's dissent in Sheehy. The Montana Supreme Court has also held, in apparent contradiction to Judge Rapkoch's dissent in Sheehy, that there is a presumption that the Legislature intended all severable portions of an act to be upheld, regardless of whether an express severability clause appears in the act. *Gullickson v. Mitchell*, 113 M 359, 375, 126 P2d 1106 (1942). Therefore, there is probably no reason to include a severability clause in every bill, but one may be included if the drafter has particularized concerns.) As a rule, severability clauses are not codified but are noted in the Annotations.

*example* NEW SECTION. **Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains

in effect in all valid applications that are severable from the invalid applications.

**4-23. Nonseverability Clause.**

In the rare instance that the sponsor intends that the entire act should fall if one of the provisions is declared unconstitutional, a nonseverability clause may be added.

*example*

NEW SECTION. **Section 16. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

**4-24. Extraordinary Vote Clause.**

Certain types of bills require extraordinary votes for approval. (See section 5-7.)

*example*

NEW SECTION. **Section 17. Two-thirds vote required.** Because [section 2] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

**4-25. Applicability Date.**

Do not confuse the applicability date with the effective date. A bill may become effective on passage and approval or on October 1 but apply retroactively or prospectively. To apply retroactively, a law must expressly so state (section 1-2-109, MCA).

*example*

NEW SECTION. **Section 18. Retroactive applicability.** [Sections 1 through 5 and 7 through 9] apply retroactively, within the meaning of 1-2-109, to all occurrences after December 1, 2008.

*or*

*example*

NEW SECTION. **Section 18. Applicability.** [This act] applies to tax years beginning after December 31, 2009.

*or*

*example* NEW SECTION. **Section 18. Applicability.** [This act does not apply to gaming compacts negotiated and approved by a Montana Indian tribe and the state before [the effective date of this act].

**4-26. Effective Date.**

Section 1-2-201(1), MCA, provides: "(a) Except as provided in subsection (1)(b), (1)(c), or (1)(d), every statute adopted after January 1, 1981, takes effect on the first day of October following its passage and approval unless a different time is prescribed in the enacting legislation.

(b) Subject to subsection (1)(d), every statute providing for appropriation by the legislature for public funds for a public purpose takes effect on the first day of July following its passage and approval unless a different time is prescribed in the enacting legislation.

(c) Subject to subsection (1)(d), every statute providing for the taxation of or the imposition of a fee on motor vehicles takes effect on the first day of January following its passage and approval unless a different time is prescribed in the enacting legislation.

(d) Every statute enacted during a special session of the legislature takes effect upon passage and approval unless a different time is prescribed in the enacting legislation."

Passage and approval means the time that a measure either is signed by the Governor or becomes law automatically if not signed within the prescribed time. An effective date should not be included in a bill unless the sponsor wants to delay the effective date (which should be done only in extraordinary circumstances), there is an emergency requiring an early effective date, the bill has fiscal impact necessitating a July 1 effective date (see Bills With Fiscal Impact, section 6-1), the bill taxes motor vehicles, or the bill is drafted for a special session. An effective date before October 1 may deprive the general public of sufficient notice and deprive administrators of the act of sufficient time to prepare procedures for the new act. (See also section 13-27-105, MCA, for the effective date of an initiative or referendum.)

*example* NEW SECTION. **Section 19. Effective date.** [This act] is effective December 1, 2009. (delayed)

*or*

*example* NEW SECTION. **Section 19. Effective date.** [This act] is effective on passage and approval. (immediate)

*or*

*example* NEW SECTION. **Section 19. Effective date.** [This act] is effective July 1, 2009. (early)

Occasionally, it is desirable to make only a portion of the act effective before October 1. In such a case, it is essential to make sure that the effective date section is itself made effective on the earlier date. An effective date section that does not itself become effective until October 1 cannot operate until October 1 and therefore cannot make other provisions of the act effective before October 1.

*Wrong/ Inoperative* NEW SECTION. **Section 19. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2009.

(2) [Sections 3, 5, and 7] are effective on passage and approval.

*Right/ Operative* NEW SECTION. **Section 19. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2009.

(2) [Sections 3, 5, and 7 and this section] are effective on passage and approval.

Whenever amendments are made to a section that has a contingent effective date, the amendments to that section must have the same contingent effective date as the section, i.e., the amendments cannot become effective before the section itself is effective.

Whenever there is more than one effective date, the effective date section must specify all effective dates, including October 1, and the title must specify "AND PROVIDING EFFECTIVE DATES".

**4-27. Termination.**

If substantive law in a bill is to terminate after a certain period of time, termination is accomplished by use of a termination section*. The sections of the bill that are to terminate are listed in the termination section. Noncodified sections should not be terminated. A repealer section may not be terminated, i.e., once Code sections are repealed, they may not be "unrepealed". (See section 4-2 for a listing of codified and noncodified sections from the bill body.)

*example* NEW SECTION. **Section 20. Termination.** [Sections 1 through 16] terminate June 30, 2012.

As the example above shows, sections terminating at the end of a fiscal year should terminate on June 30, not July 1. Sections terminating at the end of a calendar year should terminate on December 31, not January 1.

If substantive law in a bill is to terminate after some other requirement takes place, termination is accomplished by use of a contingent termination section.

*example*

NEW SECTION. **Section 20. Contingent termination.** (1) [Sections 1 through 16] terminate on the date that the director of the department of public health and human services certifies to the governor that the federal government has terminated the program or that federal funding for the program has been discontinued.

(2) The governor shall transmit a copy of the certification to the code commissioner.

(3) Any excess funds remaining upon the termination of the program must be transferred to the general fund.

Whenever amendments are made to a section that has a termination date, the amendments to that section must have the same termination date as the section.

---

*Note: Termination and contingent termination dates should be used only in extraordinary circumstances.

# SPECIAL TYPES OF BILLS

## 5-1. Validating Bills.

A validating bill is used to cure any irregularities in actions, proceedings, or transactions carried out under authority of existing law. A bond validating act is passed each session by the Montana Legislature. This type of bill may be used to validate other types of actions (such as approval of plats, distribution of revenue according to a prior census, petitions for creation of districts, etc.) as long as it does not impair the obligation of contracts or disturb a vested right.

In the past, bond validating acts have broken all rules concerning style and language in legislative drafting. It is not necessary to continue to use archaic, flowery language. (See Appendix G for a sample validating act.)

## 5-2. Interstate Compacts.

An interstate compact is a contract among several states that is enacted into law in each contracting state. A compact must be enacted in substantially the same form in each party state. For example, the drafter may inspect the several interstate compacts adopted by Montana, such as the Interstate Library Compact (section 22-1-601, MCA), Interstate Compact on Juveniles (section 41-6-101, MCA), Interstate Compact on Mental Health (section 53-22-101, MCA), and Driver License Compact (section 61-5-401, MCA).

## 5-3. Uniform or Model Acts.

(1) Uniform acts are prepared by the National Conference of Commissioners on Uniform State Laws and generally are intended to be followed exactly in substance. The purpose of a uniform act is to cover an area of law by a method that will avoid conflicts among the laws of different states. An example is the Uniform Interstate Family Support Act, Title 40, chapter 5, part 1, MCA.

(2) Model or "suggested" acts are prepared by the drafting committee of the Council of State Governments and by other persons and organizations and are intended as guides for legislation in which uniformity is not necessary. A model act is essentially a suggested method for handling a given area of law by providing guidelines within which a state may substitute sections to accommodate local peculiarities. An example is the Montana Business Corporation Act, Title 35, chapter 1, MCA. Copies of the publication *Suggested State Legislation* by the Council of State Governments are available in the Legislative Reference Center.

**5-4. Appropriation Bills.**

Article V, section 11(4), of the Montana Constitution requires every appropriation other than general appropriations for the operation of government to be "made by a separate bill, containing but one subject". (See also discussion of general appropriation bills in section 4-4(3).) The general appropriation bills covering the usual expenses of state government are prepared in accordance with a predetermined format. (See Appendix F for sample format.)

*example*

NEW SECTION. **Section 1. Appropriation.** The following money is appropriated from the general fund to the board of bill drafting to fund publication of the Bill Drafting Manual:

| | |
|---|---|
| Fiscal year 2010 | $8,720 |
| Fiscal year 2011 | 9,280 |

*example*

NEW SECTION. **Section 1. Appropriation.** The following money is appropriated from the account established by 69-1-223 to the office of the consumer counsel:

| | |
|---|---|
| Fiscal year 2010 | $200,000 |
| Fiscal year 2011 | 300,000 |

*example*

NEW SECTION. **Section 1. Appropriation.** (1) There is appropriated from the state general fund to the department of public health and human services $250,000 in each year of the biennium beginning July 1, 2009.

(2) The appropriation must be used to pay for costs billed to the state for the precommitment psychiatric detention, precommitment psychiatric examination, or precommitment psychiatric treatment of a person in an involuntary commitment proceeding, as provided in 53-21-132.

The Montana Supreme Court has held that an appropriation may be part of a nonappropriation bill without violating the unity of subject rule if the appropriation is incidental to the single subject of the bill (*Hill v. Rae*, 52 M 378, 158 P 826 (1916), and *State ex rel. Veeder v. St. Bd. of Educ.*, 97 M 121, 33 P2d 516 (1934)). For example, if a bill creates a governmental agency or program, a section of the bill appropriating money to fund the

program would be proper. However, the most recent (and probably the safest) practice has been to create the new entity and provide for necessary administrative procedures, etc., in one bill and appropriate the necessary money therefor in a separate bill.

Bills statutorily appropriating money by permanent law must conform to the requirements of section 17-7-502, MCA, in order to be effective.

The drafter must be careful in the use of the word "appropriate" or derivations of "appropriate" in legislative drafting. The word has a specific meaning regarding money. Improper use of the word may cause confusion and result in legal challenges. The term "allocate" or the phrase "is available for legislative appropriation" may be more appropriate. Fee increases are not appropriations, nor are transfers of money within the state treasury. A transfer within the state treasury is not a payment of funds out of the state treasury as contemplated by Article VIII, section 14, of the Montana Constitution. In 44 A.G. Op. 43 (1992), Attorney General Racicot determined that an appropriation is not required under either the Montana Constitution or Montana statutes when the transfer between accounts within the state treasury is statutorily authorized or directed.

**5-5. Constitutional Amendments.**

Article XIV, section 8, of the Montana Constitution provides for constitutional amendment by legislative referendum. The proposed amendment must receive an affirmative vote by two-thirds of the Legislature before it is referred to the people. Article VI, section 10, provides that bills proposing amendments to the Montana Constitution need not be submitted to the Governor for the Governor's signature. Title 13, chapter 27, MCA, contains the general law relating to procedures to be followed by the Secretary of State and other officials when submitting a constitutional amendment (and other ballot issues) to the electorate. Article XIV, section 8, provides that, unless the amendment provides otherwise, the amendment becomes effective on July 1 following certification of the election returns. (See Appendix H for sample formats.)

**5-6. Referendums.**

Article III, section 5, of the Montana Constitution provides that the people may approve or reject by referendum any act of the Legislature except an appropriation of money. The Legislature may order a proposed law to be voted upon by the people, or the people may petition to so vote. An "act" does not include a joint resolution ratifying an amendment to the United States Constitution (*State ex rel. Hatch v. Murray*, 165 M 90, 526 P2d 1369 (1974)).

When the Legislature refers an act or a proposed constitutional amendment to the people, the Secretary of State transmits a copy of the act

or proposed constitutional amendment to the Attorney General (section 13-27-209, MCA). Section 13-27-312, MCA, provides that the Attorney General must examine the proposed ballot issue for legal sufficiency. If the Attorney General determines that the proposed ballot issue is legally sufficient, pursuant to section 13-27-315, MCA, the Attorney General prepares and forwards to the Secretary of State ballot statements, as provided in section 13-27-312, MCA. However the Attorney General may not prepare statements of implication if the statements were provided by the Legislature. The drafter should become acquainted with Title 13, chapter 27, MCA, Ballot Issues.

See Appendix I for a sample format of a bill for a referendum.

**5-7. Bills Requiring Extraordinary Votes.**

Certain types of bills require extraordinary votes in order to become effective. Examples of bills requiring extraordinary votes are:

(1) a bill to grant to a public entity immunity from suit — two-thirds of each house, Art. II, sec. 18;

(2) a vetoed bill — two-thirds of each house to override, Art. VI, sec. 10;

(3) a bill to appropriate highway revenue for nonhighway purposes — three-fifths of each house, Art. VIII, sec. 6;

(4) a bill creating state debt — two-thirds of each house, Art. VIII, sec. 8;

(5) a bill to appropriate severance tax trust fund principal — three-fourths of each house, Art. IX, sec. 5;

(6) a bill to appropriate tobacco settlement trust fund principal and one-tenth of interest and income — two-thirds of each house, Art. XII, sec. 4;

(7) a bill to propose calling a constitutional convention — two-thirds of all members, Art. XIV, sec. 1; and

(8) a bill to propose amendment to the Montana Constitution — two-thirds of all members, Art. XIV, sec. 8.

A section of a bill giving notice that it requires an extraordinary vote normally comes before the effective date section if one is included. (See Appendix P.)

# BILLS WITH SPECIAL PROVISIONS

## 6-1. Bills With Fiscal Impact.

Section 5-4-201, MCA, provides that a bill having an effect on revenue, expenditures, or the fiscal liability of the state or a local government may not be reported out of committee without an attached fiscal note estimating the dollar amount of the fiscal impact. The fiscal note requirement does not apply to an appropriation bill carrying a specific dollar amount.

When a bill is reviewed by the Legislative Services Division staff prior to introduction, its possible fiscal impact is considered. If a fiscal note appears to be needed, a stamp so indicating is affixed to the bill by the staff. At the time that a bill is introduced, the President of the Senate or the Speaker of the House must determine whether the bill needs a fiscal note. The stamp helps save the presiding officer time in determining whether a fiscal note should be ordered. Upon determination of the need for a fiscal note, the presiding officer requests it from the Budget Director, who is required by law to return the note within 6 days.

The drafter can simplify the process of judging fiscal impact by keeping the fiscal note requirement in mind when drafting bills and indicating on the bill draft that a fiscal note may be required. (See Bill Drafter Checklist, Appendix R.)

The fiscal note is attached to the bill, and the committee considers it with the bill. If a bill is introduced without a request for a fiscal note or is amended in some way that affects the fiscal impact of the bill, the sponsor, the committee considering the bill, or the majority of the house considering the bill on second reading may request the presiding officer to request a fiscal note.

If a sponsor disagrees with a fiscal note, the sponsor may request a sponsor's fiscal note under section 5-4-204, MCA.

A bill's fiscal impact may also necessitate the inclusion of a special effective date. Under section 1-2-201, MCA, unless a different time is prescribed, all bills except appropriation bills and those portions of bills containing statutes providing for taxation or the imposition of a fee on motor vehicles are effective on October 1 following passage and approval. Appropriation bills become effective on July 1, and statutes providing for the taxation of or the imposition of a fee on motor vehicles become effective on January 1 following passage and approval. Statutes enacted during a special session of the Legislature take effect upon passage and approval unless a different time is prescribed in the enacting legislation. (See Effective Date, section 4-26.) Frequently, a nonappropriation bill will have such an impact on local or state finances as to make it highly desirable to provide an effective date that coincides with the beginning of the fiscal year (usually July 1). See 39 A.G. Op. 29, discussing the problems

associated with a bill increasing the county road tax levy without providing a July 1 effective date.

Sections 1-2-112 through 1-2-114, MCA, are also concerned with fiscal impact. These statutes require that any law directing a local government unit or school district to perform an activity or provide a service or facility that will require additional funds contain a specific means of financing the activity or service. Therefore, a drafter must be careful, when drafting bills concerning additional local government or school district activities or services, to include provision for an additional mill levy or remittance of state funds sufficient to fund the new activity or service. These statutes provide that a bill may not be introduced until a specific means of financing is provided.

**6-2. Bills Granting Rulemaking Authority.**

(1) In highly complex, technical fields in which the degree of specificity required is not considered appropriate for comprehensive statutory treatment or when interim authority is necessary to provide for continuing compliance with ever-changing federal law and regulations, the requester may wish to delegate rulemaking authority to an Executive Branch agency. Rules have the force of law (i.e., an enforceable prohibition or mandate of behavior or activity) only if:

(a) adopted under an express grant of legislative authority;

(b) adopted under statutory guidelines sufficiently specific to satisfy the constitutional separation of powers requirement for a delegation of rulemaking authority;

(c) adopted in compliance with the procedures outlined in Title 2, chapter 4, part 3, MCA; and

(d) consistent with and reasonably necessary to effectuate the purpose of the implemented statutes (section 2-4-305(6), MCA).

(2) Items (a) and (b) above are most significant from the bill drafting standpoint. An express grant of rulemaking authority is created for a new body of law by stating substantially that "The department shall [may] adopt rules to implement [sections 1 through 12]." Section 5-4-103, MCA, enacted by the 1997 Legislature, provides that a statute delegating rulemaking authority to an agency must contain specific guidelines describing for the agency and the public what the rules may and may not contain.

A statement that something must be in accordance with rules adopted by the department or that a person or entity is required to follow rules to be adopted by the department or similar language is not a grant of rulemaking authority—it is merely a mandate that department rules on the subject be followed.

An existing program that already includes an express grant of rulemaking authority may be modified or expanded by amendment of MCA sections to which the existing express grant of authority applies or by enactment of a new bill section along with a codification instruction making the existing authority apply to the new bill section. (See Code Placement & Applicability — Codification Instruction — Directions to Code Commissioner, section 4-19.) The drafter must indicate on the bill drafter checklist whether new rulemaking authority is granted or whether existing rulemaking authority is extended to the new provisions in the bill.

(3) A mere implication of power to adopt rules gleaned from implemented statutes because of a perceived necessity for rules is not a sufficient reason to adopt legislative rules, i.e., rules having the force of law (section 2-4-102(13)(a), MCA). Moreover, even a clearly expressed grant of rulemaking authority will be ineffective if it is so broad and unrestricted as to constitute an unconstitutional delegation of legislative authority. (See *In re Gate City S&L Ass'n*, 182 M 361, 597 P2d 84 (1979).)

(4) Basic policy and guidelines must be determined by the Legislature as set forth in statutory restrictions, standards, and criteria to be followed by the agency in adopting rules. For further discussion of constitutional problems related to delegation of authority and separation of powers generally, see Chapter 1.

(5) Pursuant to section 2-4-309, MCA, an agency may proceed with rulemaking under Title 2, chapter 4, MCA, after the enactment of a statute to be implemented by rule, but a rule may not become effective prior to the effective date of the statute.

(6) A bill may also specifically repeal or direct amendment or adoption of an administrative rule. (See section 2-4-412, MCA; Appendix K.)

**6-3. Bills Creating a New Agency.**

Title 2, chapter 15, MCA, contains a reference to each agency in the Executive Branch created by statute. In the MCA, the creation of an agency is separated from the functions of that agency.

Whenever an Executive Branch agency is created by bill, one or more sections should deal with its creation and internal organization. These sections will be codified in Title 2, MCA.

In addition, the bill must contain a definition section that includes a definition of the new agency.

*Example*

NEW SECTION. **Section 2. Definitions.** In [sections 2 through 12], the following definitions apply:

(1) "Board" means the board of dogcatchers provided for in [section 1].

(2) "Dogcatcher" means . . . .

In this example, "[sections 2 through 12]" will be changed to "this chapter", "this part", or sections "___ through ___" (MCA), as appropriate, and "[section 1]", which creates the board, will become a Code section number in Title 2, chapter 15, MCA. The definition section will be codified with the part of the bill dealing with the functions, powers, and duties of the new agency.

The same rule applies to the creation of any new Legislative or Judicial Branch agency. For example, the composition, terms, and officers of the Environmental Quality Council are provided for in Title 5, MCA, Legislative Branch, because the Council is a legislative agency. However, the functions of the Council are codified in Title 75, MCA, Environmental Protection. (See sections 5-16-101 through 5-16-105, MCA, and Title 75, chapter 1, part 3, MCA.)

Whenever a drafter is dealing with a change of an agency's functions or duties, the statutes relating to the creation and composition of the agency must be checked as well as the substantive area of the law.

# RESOLUTIONS

The only type of instrument other than a bill that may be introduced in either house of the Legislature is a resolution.

**7-1. Simple Resolution.**

A simple resolution may be used to amend the rules of or to provide for the internal affairs of the house adopting it. A simple resolution does not require three readings or a roll call vote as does a bill or joint resolution.

**7-2. Joint Resolution.**

A joint resolution is effective upon passage by both houses and need not be submitted to the Governor for the Governor's signature (Article VI, section 10, Montana Constitution). Some common uses of joint resolutions are to:

(1) send a request to a state agency, Congress, or the President;

(2) express sympathy to relatives of a deceased legislator;

(3) amend or adopt Joint Rules;

(4) ratify or propose amendments to the U.S. Constitution;

(5) request repeal, amendment, or adoption of Executive Branch administrative rules (section 2-4-412, MCA);

(6) express support for or disapproval of federal legislation;

(7) prescribe duties, compensation, etc., of legislative employees;

(8) request an interim study; or

(9) approve construction of a state building (sections 18-2-102 and 20-25-302, MCA).

The law provides that disasters and emergencies be dealt with by the Legislature by joint resolution (sections 10-3-302(3), 10-3-303(3) and (4), 10-3-505(5), and 90-4-310, MCA). A negotiated labor settlement may also be submitted by joint resolution (section 39-31-305(3), MCA).

Resolutions do not have the force of law. In *Gildroy v. Anderson*, 162 M 26, 507 P2d 1069 (1973), the Supreme Court said, "The effect and validity of a joint legislative resolution must be decided upon a consideration of the purpose intended to be accomplished and in light of the applicable provisions of the Montana Constitution." The court went on to say, "A joint resolution is not a general law and cannot be used to control the discretion of the governor."

The format of resolutions has been prescribed by custom. In resolutions, it would seem that even the unity of subject rule need not be followed because the resolution does not have the binding effect of a law. Customary formats are presented in the Appendix and must be followed by the drafter.

The preamble of a resolution is identical to the preamble of a bill. It usually begins with "WHEREAS" and states the purpose of or reason for the resolution.

In a resolution, a resolving clause takes the place of the enacting clause of a bill. In the past, the body of a resolution has consisted of one or more paragraphs, each beginning with the statement "BE IT FURTHER RESOLVED". The drafter may wish to number the paragraphs, as shown in the second example in Appendix N, as an alternative, rather than continue to repeat the rather flowery, archaic language.

Standard capitalization rules are followed when drafting a resolution, and a subjunctive verb is used in "BE IT RESOLVED" statements.

# BILL AMENDMENTS

## 8-1. Introduction.

Proposed bill amendments may be prepared by the Legislative Services Division staff, committee staffs, lobbyists, or legislators themselves. Amendments adopted by a standing committee are included in a Standing Committee Report. Amendments must be drafted by Legislative Services Division staff before they may be included in a Standing Committee Report.

The amendment must identify the specific copy of the bill to be amended, i.e., introduced (white); second reading (yellow); third reading (blue); second house, second reading (tan); or reference bill (salmon). Only the most recent copy of the bill may be amended!

## 8-2. Reminders When Amending Bills.

(1) (a) Check that changes made by amendment are reflected in the title, if necessary. These changes include the insertion or removal of all amended or repealed MCA section numbers (listed in numerical order) and related descriptive language.

(b) Remember that appropriation, effective date, applicability, and termination provisions must be reflected in the title, as well as provisions regarding creating a state debt and superseding the unfunded mandate laws. Provisions regarding extraordinary vote requirements and contingent voidness are not necessary in the title.

(c) Watch for the 100-word limitation in the title of a referendum.

(2) Amend the catchline, if necessary.

(3) Amend entire words, not portions of words (e.g., to change spelling or capitalization).

(4) Check amendment language for clarity, spelling, punctuation, outlining, style, and consistency with the rest of the bill.

(5) Make sure that new internal references in the amendment are accurate.

(6) Check the entire bill for any references to terms, figures, or dates that are being changed or provisions that are being deleted, i.e., the amendment appears in all appropriate places.

(7) (a) If "department", "board", etc., are used in new language, check that the terms are defined for the title, chapter, or part where the language is being added to a code section or for the title, chapter, or part where a new section will be codified.

(b) Check that new definitions are in alphabetical order and that they are used and used consistently.

(c) If a defined term is added, deleted, or changed, check that language in the bill works with the term as amended. (If a defined term is deleted by

amendment, there should be no reference to that term in the title, chapter, or part to which the definition had applied.) (See Appendix S for tips on searching.)

(8) If a program or concept is amended out, such as a tax credit for the elderly or a task force, make sure that reference to it is taken out everywhere in the bill.

(9) If bill section numbers are changed, check the entire bill for internal references to those sections. Especially watch "housekeeping" (noncodified) sections. Run an electronic search of the bill for brackets to find all bracketed internal references. Search for "[".

(10) If an amendment causes reoutlining:

(a) check that section's outline and recheck subsection references in that section;

(b) search the entire bill for internal references to the former subsection numbers of the reoutlined section; and

(c) check the online internal reference list unless the provision being amended is a new section. (See section 1-8.)

(11) (a) If additional sections are being repealed, be sure to check that both the title and repealer section reflect the amendment and check the online internal reference list and amend any sections affected.

(b) Make sure that an MCA section is not being both amended and repealed in the bill (unless a delayed effective date for the repealer allows both).

(c) If an amendment removes the repeal of a section, address any stricken references to the repealed section and any sections in the bill included only because of references to the repealed section.

(12) If an amendment removes the repeal of a section, check to see if any section is in the bill because it contained a concept relating to the repealed section. For example, if a repealed section providing for an account is unrepealed, then any section containing language that was stricken regarding the account needs to be amended to insert the stricken language. (Check that the section is still substantively amended.)

(13) (a) Note that if there is more than one effective date in the bill, amendments may not include references to "[the effective date of this act]"; use "[the effective date of this section]".

(b) To avoid listing references to many sections in the bill, use the following language in an effective date section (this applies to an original bill draft as well):

"(1) Except as provided in subsection (2), [this act] is effective on passage and approval.

(2) [Sections 3, 7, and 52] are effective January 1, 2010."

(14) Check that a termination provision does not terminate a repealer section. A repealer section, along with other housekeeping sections, must be excluded from the termination.

(15) If an amendment is adding a coordination instruction, check the bill referenced in the amendment and make sure that the coordination provisions work.

(16) Remember that Article V, section 11, of the Montana Constitution states that a bill may not be altered or amended on its passage through the Legislature so as to change its original purpose. This particularly applies to substitute bills. If the amendment would entirely change the original direction of the bill or enter a new subject area not covered by the original bill, a constitutional problem is likely.

(17) If an amendment removes the only substantive amendment from an MCA section, amend the entire section out of the bill because it no longer relates to the stated purpose of the bill. When a section is removed from a bill for this reason, the title and any affected internal references must also be amended.

(18) Do not draft an amendment to strike the end of one section and to continue striking through the catchline or the middle of the following section (can't be done because of the coding that appears around sections in the bill).

(19) Do not draft amendments that amend previous amendments or that strip amendments. Previously adopted amendments must be stricken, or a motion may be made to rescind them.

## 8-3. Substitute Bill.

If the proposed amendment is very extensive, it may be easier to rewrite the entire bill. This is called a substitute bill. The Joint Rules provide that if the amendment is relevant to the title and subject matter of the original bill and is so extensive that a standard amendment would be long and difficult to comprehend, the bill may be amended by striking all of the bill following the enacting clause and substituting an entirely new bill. (See section 8-4(14) and Appendix O.)

The title for a substitute bill may not be stricken in its entirety and replaced. The subject matter of a bill with a generally revising title may be narrowed to a single subject and may revert back to "generally revising".

## 8-4. Amendment Language Samples.

**(1) Amend title**

1. Title, lines 5 through 7.

Following: "A PERSON" on line 5

Strike: remainder of lines 5 through 7 in their entirety
Insert: "WHO HAS SERVED A SENTENCE"

**(2) Insert material only**

1. Page 1, line 23.
Following: "statement"
Insert: "in simple language"

**(3) Insert material following stricken material**

1. Page 1, line 7.
Strike: "four percent of the payment due"
Insert: "4%"

2. Page 2, line 10.
Following: "~~12%~~"
Insert: "12%"

3. Page 4, line 5.
Strike: "The" through "act."
Insert: "The department shall enforce the provisions of this section."

***Note: It can help readability to strike an entire sentence and insert a whole new sentence rather than insert many "choppy" amendments into a sentence.***

**(4) Insert material and renumber**

1. Page 4.
Following: line 1
Insert: "NEW SECTION. **Section 2. Restrictions on bargaining.** Nothing in this chapter requires or allows a board of trustees of a school district to bargain collectively upon any matter other than matters specified in 39-31-305."
Renumber: subsequent sections

2. Page 5.
Following: line 3
Insert: "**Section 4.** Section 53-6-205, MCA, is amended to read:
"**53-6-205. Departmental reports to legislature.** The department shall achieve full implementation of the program, as set forth in this chapter and related sections, no later than ~~January~~ April 1, 2010.""

Insert: "NEW SECTION. **Section 5. Reports — filing.** The reports submitted pursuant to 53-6-605 must be filed in the office of the secretary of state."

Insert: "NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 53, chapter 6, part 6, and the provisions of Title 53, chapter 6, part 6, apply to [section 5]."
Renumber: subsequent sections

**(5) Strike and insert columnar figures in appropriation bills**
1. Page 12, line 20.
Strike: "45,000" "47,000"
Insert: "44,954" "46,955"

**(6) Strike material only**
1. Page 1, line 22.
Strike: "by"
(if there is only one "by" on line 22)

2. Page 4, line 23.
Following: "public,"
Strike: "the"
(if there is more than one "the" on the line or use "Strike: the third "the""; if not, use form 1 above)

3. Page 5, line 16.
Strike: "doctor, ~~engineer,~~ lawyer, ACCOUNTANT,"
(show material to be stricken exactly as it appears in the bill)

4. Page 3, lines 4 and 5.
Strike: "poultry" on line 4 through "livestock" on line 5

**(7) Strike certain lines in their entirety**
1. Page 1, line 21 through page 2, line 1.
Following: "vagrancy." on line 21
Strike: remainder of line 21 through page 2, line 1 in their entirety

**(8) Strike a section, subsection, or long passage in its entirety**
1. Page 1, line 11 through page 3, line 6.
Strike: section 3 in its entirety
Renumber: subsequent sections

2. Page 2, line 24 through page 3, line 15.
Strike: subsection (e) in its entirety
Renumber: subsequent subsections

3. Page 4, line 21 through page 5, line 5.
Following: "act" on line 21
Strike: remainder of line 21 through "day" on page 5, line 5

**(9) Strike and renumber subsequent sections or subsections**

1. Page 2, lines 1 and 2.
Strike: section 10 in its entirety
Renumber: subsequent sections

2. Page 3, line 21 through page 4, line 2.
Strike: subsections (a) and (b) in their entirety
Renumber: subsequent subsections

When an amendment results in one level of outlining being changed, use the following form:

3. Page 4, line 15.
Strike: "(1)"
Insert: "(a)"
Renumber: subsequent subsections

When an amendment results in several levels of outlining being changed, use the following form:

4. Page 5, lines 1 through 3.
Strike: "(1)" on line 1
Insert: "(a)"
Renumber: subsequent subsections
Page 5, line 2.
Strike: "(a)"
Insert: "(i)"
Renumber: subsequent subsections
Page 5, line 3.
Strike: "(i)"
Insert: "(A)"
Renumber: subsequent subsections

***If a section or subsection is renumbered by amendment, check the entire bill to see if internal references are affected and need to be amended.***

**(10) Strike and replace a section or subsection**

1. Page 12, lines 5 through 21.
Strike: section 13 in its entirety
Insert: "**Section 13.** Section 1-1-101, MCA, is amended to read:
"**1-1-101. Definition of law.** "Law" is . . . ."

2. Page 14, lines 7 through 21.
Strike: subsection (c) in its entirety
Insert: "(c) A person who violates this section is guilty of a misdemeanor."

***If a section or subsection is renumbered by amendment, check the entire bill to see if internal references are affected and need to be amended.***

**(11) More than one amendment on the same line**

1. Page 12, line 23.
Following: "registrant"
Insert: "or licensee"
Following: "proper"
Strike: "inspection"

**(12) Same amendment in many places in large bill**

1. Page 2, line 13.
Page 3, lines 4 and 21.
Page 6, lines 1, 4, and 12.
. . .
. . .
Page 134, lines 2, 15, 18, 22, and 25.
Strike: "July"
Insert: "August"

(Because this format is cumbersome for the engrossing staff and may cause errors, it should be used sparingly and only for extremely extensive amendments.)

**(13) Correct punctuation**

1. Page 18, line 10.
Following: "desires"
Strike: "."
Insert: ";"

**(14) Amend a bill as a substitute bill; strike all of the bill after the enacting clause**

1. Title, lines 5 through 15.
Following: ""AN ACT"
Strike: line 5 through "OFFENSE" on line 15 in their entirety
Insert: "PROVIDING THAT A PERSON CONVICTED OF A CRIMINAL OFFENSE WHO HAS SERVED A SENTENCE AND IS NO LONGER UNDER STATE SUPERVISION MAY BE GRANTED THE PRIVILEGE OF OCCUPATIONAL LICENSURE; AND DEFINING LICENSURE AS A PRIVILEGE"

(The title for a substitute bill may not be stricken in its entirety and replaced. The subject matter of a bill with a generally revising title may be narrowed to a single subject and may revert back to "generally revising".)

2. Page 1, line 23 through page 52, line 6.
Strike: everything after the enacting clause
Insert: "NEW SECTION. **Section 1. Purpose.** It is the public policy of the legislature of the state of Montana to . . . ."

Insert: "NEW SECTION. **Section 2. Licensure defined as privilege.** Licensure is a privilege to be granted or revoked as a police power of the state . . . ."

Insert: "NEW SECTION. **Section 3. Restoration of rights to felons.** Laws for the punishment of crime must be founded on the principles of prevention and reformation . . . ."

Insert: "NEW SECTION. **Section 4.** . . . ."

# SELECTED PROVISIONS RELATING TO BILL DRAFTING

The following is a list of constitutional, statutory, and Joint Rule provisions of which a bill drafter should be especially knowledgeable.

**9-1. Montana Constitution.**

- Article II. Declaration of Rights
  - Section 4. Equal protection
  - Section 5. Freedom of religion
  - Section 7. Freedom of speech, expression, and press
  - Section 18. State subject to suit
  - Section 31. Ex post facto, obligation of contracts, and irrevocable privileges
- Article III. General Government
  - Section 1. Separation of powers
  - Section 5. Referendum
- Article V. The Legislature
  - Section 11. Bills
  - Section 12. Local and special legislation
- Article VI. The Executive
  - Section 10. Veto power
- Article VIII. Revenue and Finance
  - Section 1. Tax purposes
  - Section 2. Tax power inalienable
  - Section 6. Highway revenue nondiversion
  - Section 8. State debt
  - Section 9. Balanced budget
- Article XIII. General Provisions
  - Section 1(3). No retrospective law
- Article XIV. Constitutional Revision
  - Section 8. Amendment by legislative referendum

**9-2. Montana Code Annotated.**

- Title 1 — General Laws and Definitions, especially:
  - Chapter 1, part 2 — General Definitions of Terms Used in Code
  - Chapter 2 — Statutory Construction
  - Chapter 11 — Publication and Updating of the Code — Code Commissioner
- Title 2, chapter 4, part 4 — Legislative Review of Administrative Rules
- Title 5, chapter 4 — Legislative Branch — Bills
- Title 13, chapter 27 — Ballot Issues

**9-3. Rules of the Montana Legislature.**

Joint Rules

Chapter 40. Legislation

# COMPUTERIZED BILL DRAFTING AND PROCESSING

## 10-1. Introduction.

The Legislative Services Division uses an integrated computerized system that combines microcomputer and mainframe computer word processing software to perform certain tasks, such as bill drafting, bill processing, Code updating, and searching. Individual drafters may use the search capability of the MCA on CD-ROM.

## 10-2. Framing a Search. (See Appendix S for tips on searching.)

Because the computer cannot think for itself, it is important when considering whether or not to request a search that the searcher have a good idea of the words or phrases that a legislative drafter might have used to express the concept being searched. For example, if the search is for all sections of the Code providing statutes of limitations, that phrase actually may never have been used. Instead, the drafter might have said, "suit must be brought within 6 years", "if the action is not brought within 6 years, it is barred", or even "the period of limitations is 6 years". Similarly, a search for sections that define criminal conduct might include the following: "felony", "misdemeanor", "fine", "may be fined", "may be imprisoned", "punishable by", "it is unlawful to . . .", "guilty", "upon conviction of . . .", and possibly "crime", "criminal", or "offense".

Words may be used in senses other than the one to be searched. For example, a drafter might wish to search for material relating to arrest or search warrants. A search of the word "warrant" alone would include not only search and arrest warrants but warrants issued by the State Auditor, warrants of resurvey, stock warrants, and the verb form "if conditions warrant".

Some concepts are nearly impossible to search for, such as "conflict of interest". One can imagine how many ways a drafter might phrase provisions in this area.

Other concepts are so narrow in scope that all or most references are likely to appear in one title. A search may be made of only certain designated portions of the Code.

The Legislative Services Division staff will frame a search for other state agencies and the public. Persons having access to the "LEXIS" or WESTLAW legal research system may conduct their own searches of the Code using that system, or a search may be done on the CD-ROM or Internet version of the Code.

**10-3. Drafting System.**

The Legislative Services Division staff drafts bills on microcomputers, using WordPerfect software. To enhance the bill drafting process, drafters can retrieve existing Code sections from the Code database directly into their bill draft documents.

By means of special format control codes, selected text can be automatically overstricken or underscored. Standard material in a bill, such as bill identification, the enacting clause, and each introductory amending clause, is automatically inserted into the bill draft document.

Software provides page numbering, sequential numbering of sections, and publishing control code features used in preparing camera-ready copy for publishing.

Following the legislative session, successful bills are processed and merged into the existing Code database to create the updated text of the Montana Code Annotated.

In addition, text from the WordPerfect directory and the Code database is processed to prepare camera-ready copy used to publish the Session Laws and the Montana Code Annotated.

61st Legislature LC 0001.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MUNICIPAL COURT JUDGE AND THE JUDGE'S LAW PARTNERS TO PRACTICE LAW BEFORE ANY COURT OF THIS STATE EXCEPT THE MUNICIPAL COURT OF THAT JUDGE; AMENDING SECTIONS 3-1-601, 3-1-603, AND 3-1-604, MCA; AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 3-1-601, MCA, is amended to read:

"**3-1-601. Certain officers not to practice law or administer estates.** (1) ~~A~~ Except as provided in 3-1-604, a justice or judge of a court of record or clerk of any court may not practice law in any court in this state or act as attorney, agent, or solicitor in the prosecution of a claim or application for lands, pensions, or patent rights or other proceedings before a department of the state or general government or a court of the United States during ~~his~~ the justice's or judge's continuance in office.

(2) Neither the court administrator nor an assistant may practice law in any of the courts of this state while holding ~~his~~ the position of court administrator or assistant.

(3) A justice or judge of a court of record may not act as administrator or executor of any estate for compensation."

**Section 2.** Section 3-1-603, MCA, is amended to read:

"**3-1-603. No judicial officer of court of record to have partner practicing law.** (1) ~~A~~ Except as provided in subsection (2), a judicial officer of a court of record may not have a partner acting as attorney or counsel in any court of this state.

(2) A partner of a municipal court judge may act as attorney or counsel in any court of this state except the municipal court of the attorney's partner."

**Section 3.** Section 3-1-604, MCA, is amended to read:

"**3-1-604. Restrictions on municipal court judges.** A municipal court judge may not practice law before the judge's own municipal court or hold office in a political party during the judge's term of office."

NEW SECTION. **Section 4. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective October 1, 2009.

(2) [Section 1 and this section] are effective on passage and approval.

-END-

61st Legislature LC 0002.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO TRANSFER TO THE GENERAL FUND FROM THE HAZARDOUS WASTE/CERCLA ACCOUNT A TOTAL NOT TO EXCEED $1 MILLION; AMENDING SECTION 75-10-621, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 75-10-621, MCA, is amended to read:

"**75-10-621. Hazardous waste/CERCLA special revenue account.** (1) There is a hazardous waste/CERCLA special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the hazardous waste/CERCLA account:

(a) revenue obtained from the interest income of the resource indemnity trust fund under the provisions of 15-38-202, together with interest accruing on that revenue;

(b) all proceeds of bonds or notes issued under 75-10-623 and all interest earned on proceeds of the bonds or notes; and

(c) revenue from penalties or damages collected under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended in 1986 (CERCLA).

(3) ~~Appropriations~~ Except as provided in subsection (6), appropriations may be made from the hazardous waste/CERCLA account only for the following purposes and subject to the following conditions:

(a) not more than one-half of the interest income received for any biennium

from the resource indemnity trust fund may be appropriated on a biennial basis for:

(i) implementation of the Montana Hazardous Waste Act, including regulation of underground storage tanks and the state share to obtain matching federal funds;

(ii) implementation of Title 75, chapter 10, part 6, pertaining to state assistance to and cooperation with the federal government for remedial action under CERCLA;

(iii) expenses of the department in administering and overseeing the implementation of Title 75, chapter 10, parts 4 and 6; and

(iv) state expenses relating to investigation and remedial action for any hazardous substance defined in 75-10-602; and

(b) to the extent funds are available after the appropriations in subsection (3)(a), the department may, as appropriate, seek authorization from the legislature or, when the legislature is not in session, through the budget amendment process provided for in Title 17, chapter 7, part 4, to spend funds for:

(i) state participation in remedial action under section 104 of CERCLA;

(ii) state costs for maintenance of sites at which remedial action under CERCLA has been completed; and

(iii) the state share to obtain matching federal funds for underground storage tank corrective action.

(4) For the purposes of subsection (3)(b), the legislature finds that a need for state special revenue to obtain matching federal funds for underground storage tank corrective action or for remedial action under section 104 of CERCLA constitutes a serious unforeseen and unanticipated circumstance for the purpose of meeting the definition of "emergency" in 17-7-102. The legislature further finds that the inability of the department to match the federal funds as the funds become available would seriously impair the functions of the department in carrying out its responsibilities under Title 75, chapter 10, parts 4 and 6.

(5) There is no dollar limit to the hazardous waste/CERCLA account. ~~Unused~~

Except as provided in subsection (6), unused balances remain in the account until appropriated by the legislature for the purposes specified in this section.

(6) Before June 30, 2009, the department shall transfer from the hazardous waste/CERCLA account to the general fund an amount not to exceed $1 million."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Termination.** [This act] terminates June 30, 2009.

-END-

61st Legislature LC 0003.01

_____ BILL NO. _____

INTRODUCED BY_____

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING PROCEDURES FOR DISCIPLINING ATTORNEYS THAT ARE INCONSISTENT WITH ORDERS AND RULES OF THE SUPREME COURT; REPEALING SECTIONS 37-61-304, 37-61-305, AND 37-61-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Montana Supreme Court has original and exclusive jurisdiction to discipline persons admitted to practice law in Montana pursuant to Article VII, section 2(3), of the Montana Constitution and Title 37, chapter 61, MCA, and its inherent jurisdiction; and

WHEREAS, the Montana Supreme Court, by its orders governing the disciplining of persons admitted to practice law in Montana, established a Commission on Practice to receive and investigate complaints of misconduct by lawyers in Montana; and

WHEREAS, the Montana Supreme Court, by its orders governing the disciplining of persons admitted to practice law in Montana, also established grievance committees in each judicial district to assist the Commission on Practice in its investigation and processing of complaints of misconduct by attorneys in Montana; and

WHEREAS, sections 37-61-304 through 37-61-306, MCA, also address procedures for investigating and processing complaints of misconduct by attorneys in Montana; and

WHEREAS, the procedures set forth in sections 37-61-304 through 37-61-306, MCA, are inconsistent with the procedures established by the Montana Supreme Court in its orders.

THEREFORE, the Legislature of the State of Montana finds that it is

appropriate to repeal these inconsistent sections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Repealer.** Sections 37-61-304, 37-61-305, and 37-61-306, MCA, are repealed.

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

61st Legislature LC 0004.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING A SCHOOL DISTRICT TO ESTABLISH AND MAINTAIN A FIREARMS SAFETY EDUCATION COURSE; AND AUTHORIZING A DISTRICT TO USE A COURSE DEVELOPED BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS, A LAW ENFORCEMENT AGENCY, OR A FIREARMS ASSOCIATION."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Firearms safety education.** The trustees of a district are encouraged to establish and maintain a firearms safety education course. The trustees may adopt a course of instruction developed by the department of fish, wildlife, and parks, a law enforcement agency, or a firearms association as its firearms safety education course. Instructors from the department of fish, wildlife, and parks, a law enforcement agency, or a firearms association or a person recognized by the trustees as having expertise in firearms safety education may be used to provide the instruction.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 20, chapter 7, part 1, and the provisions of Title 20, chapter 7, part 1, apply to [section 1].

-END-

61st Legislature LC 0005.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JOINT SUBCOMMITTEE ON
HIGHWAYS AND TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT EMPOWERING THE TRANSPORTATION COMMISSION TO ESTABLISH PRIORITIES AND TO SELECT ROADS FOR CONSTRUCTION AND RECONSTRUCTION; AMENDING SECTION 60-2-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Setting priorities and selecting projects.** The commission shall establish priorities and select and designate segments for construction and reconstruction on federal-aid interstate and federal-aid primary and state highway systems. The commission shall use information gathered or discovered by and documents prepared by the department, and department officials and employees shall provide assistance and advice.

**Section 2.** Section 60-2-201, MCA, is amended to read:

"**60-2-201. General powers of department.** (1) The department may plan, lay out, alter, construct, reconstruct, improve, repair, and maintain highways on the federal-aid systems and state highways according to priorities established by and on projects selected and designated by the commission.

(2) The department may cooperate and contract with counties and municipalities to provide assistance in performing these functions on other highways and streets.

(3) The department may review and approve projects for the installation of public works on state highway rights-of-way and authorize a county or

municipality to let contracts related to the improvements.

(4) The department shall adopt necessary rules for the construction, repair, maintenance, and marking of state highways and bridges."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 60, chapter 2, part 1, and the provisions of Title 60 apply to [section 1].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

-END-

61st Legislature LC 0006.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING PERMANENT THE PROVISION THAT ELIMINATES USURY LIMITS UNDER THE MONTANA RETAIL INSTALLMENT SALES ACT; AMENDING SECTION 5, CHAPTER 276, LAWS OF 1985, AND SECTION 6, CHAPTER 509, LAWS OF 1995+; REPEALING SECTION 7, CHAPTER 554, LAWS OF 1987, SECTIONS 2 AND 5, CHAPTER 155, LAWS OF 1989, AND SECTION 4, CHAPTER 498, LAWS OF 1995; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 5, Chapter 276, Laws of 1985, is amended to read:

"**Section 5. Effective date ~~— termination~~.** [This act] is effective on passage and approval ~~and terminates July 1, 1987~~."

**Section 2.** Section 6, Chapter 509, Laws of 1995, is amended to read:

"**Section 6.** Section 5, Chapter 276, Laws of 1985, is amended to read:

"**Section 5. Effective date ~~— termination~~.** [This act] is effective on passage and approval ~~and terminates July 1, 1987~~ 2009.""

NEW SECTION. **Section 3. Repealer.** Section 7, Chapter 554, Laws of 1987, sections 2 and 5, Chapter 155, Laws of 1989, and section 4, Chapter 498, Laws of 1995, are repealed.

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

-END-

+Note: All "layers" of session law that are amended must be listed in chronological order in the title.

61st Legislature LC 0006.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE JUDICIAL UNIFICATION AND FINANCE COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PUBLIC HEARING BEFORE THE LOCAL OPTION TAX ON LIGHT VEHICLES MAY BE CHANGED; EXTENDING THE CURRENT DISPOSITION OF THE LOCAL OPTION TAX REVENUE BETWEEN THE COUNTY AND CITIES WITHIN THE COUNTY; AMENDING SECTION 61-3-537, MCA, SECTION 4, CHAPTER 749, LAWS OF 1991, AND SECTION 1, CHAPTER 217, LAWS OF 1993+; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 61-3-537, MCA, is amended to read:

"**61-3-537.** ***(Temporary)*** **Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a tax under 61-3-504 at a rate of up to 0.7% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504.

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504. The first priority of the local vehicle tax is for district court funding, and the tax is distributed as follows:

(a) 50% to the county; and

(b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county

to the total county population.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution. The resolution may provide for the distribution of the local vehicle tax. *(Terminates June 30, ~~2009~~ 2015 ~~— sec. 1, Ch. 217, L. 1993~~.)*

**61-3-537.** ***(Effective July 1, ~~2009~~ 2015)*** **Local option vehicle tax.** (1) A county may impose a local vehicle tax on vehicles subject to a tax under 61-3-504 at a rate of up to 0.7% of the value determined under 61-3-503, in addition to the tax imposed under 61-3-504.

(2) A local vehicle tax is payable at the same time and in the same manner as the tax imposed under 61-3-504 and is distributed in the same manner, based on the registration address of the owner of the motor vehicle.

(3) The governing body of a county may impose, revise, or revoke a local vehicle tax ~~for a fiscal year~~ by adopting a resolution before July 1 ~~of the fiscal year~~, after conducting a public hearing on the proposed resolution."

**Section 2.** Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993~~ 2015."

**Section 3.** Section 1, Chapter 217, Laws of 1993, is amended to read:

"**Section 1.** Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993~~ ~~2009~~ 2015.""

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

-END-

+Note: All "layers" of session law that are amended must be listed in chronological order in the title.

61st Legislature LC 0007.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY FOR THE OPERATION OF THE LEGISLATURE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Appropriations.** The following amounts are appropriated from the state general fund for fiscal years 2009, 2010, and 2011 for the operation of the 61st legislature and the costs of preparing for the 62nd legislature:

| | |
|---|---|
| LEGISLATIVE BRANCH (1104) | |
| 1. House of Representatives (26) | $4,617,043 |
| 2. Senate (25) | 2,651,550 |
| 3. Legislative Services Division (22) | 657,352 |

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

61st Legislature LC 0008.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF LIVESTOCK TO SATISFY A FINAL JUDGMENT IN CAUSE NO. 79-14-GF, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA, GREAT FALLS DIVISION, IF THE CASE IS UPHELD ON APPEAL."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Appropriation.** There is appropriated from the general fund to the department of livestock $391,500 for full payment of all obligations and judgments against the defendants in Cause No. 79-14-GF, United States district court, district of Montana, Great Falls division, entitled "M. P. Doran, et al., Plaintiffs v. James W. Glosser, et al., Defendants". This appropriation is effective only if the United States district court judgment filed and entered on March 23, 2006, is expressly upheld and made final following appeal to the United States court of appeals, ninth circuit. Any unexpended portion of this appropriation reverts to the general fund.

-END-

61st Legislature LC 0009.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE APPLICATION OF THE BOND VALIDATING ACT; AMENDING SECTION 17-5-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 17-5-205, MCA, is amended to read:

"**17-5-205. Application.** The application of the Bond Validating Act, Title 17, chapter 5, part 2, is extended to bonds issued and proceedings taken prior to ~~February 1, 2007~~ [the effective date of this act]."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

61st Legislature LC 0010.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE V, SECTION 6, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE LEGISLATURE SHALL MEET IN ANNUAL SESSIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."+

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article V, section 6, of The Constitution of the State of Montana is amended to read:

"**Section 6. Sessions.** The legislature shall ~~meet each odd numbered year in regular session of not more than 90 legislative days~~ be a continuous body for 2-year periods beginning when newly elected members take office. Any business, bill, or resolution pending at adjournment of a session shall carry over with the same status to any other session of the legislature during the biennium. The legislature shall meet at least once a year in regular session of not more than 60 legislative days. Any legislature may increase the limit on the length of any subsequent session. The legislature may be convened in special sessions by the governor or at the written request of a majority of the members."

NEW SECTION. **Section 2. Effective date.** This amendment is effective upon approval by the electorate.

NEW SECTION. **Section 3. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act* and the following:

Sample — Referendum for Constitutional Amendment

[ ] FOR annual sessions.+

[ ] AGAINST annual sessions.+

-END-

+Note: The title is limited to 100 words, and the FOR and AGAINST statements are limited to 25 words each.

*Note: The guidelines pertaining to brackets (see sections 3-2 and 4-11) do not apply to noncodified sections of ballot issues.

61st Legislature LC 0011.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE II, SECTION 18, OF THE MONTANA CONSTITUTION TO PROVIDE THAT THE LEGISLATURE MAY DETERMINE WHEN THE STATE OR ITS SUBDIVISIONS MAY NOT BE SUED; AND PROVIDING A DELAYED EFFECTIVE DATE."+

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Article II, section 18, of The Constitution of the State of Montana is amended to read:

"**Section 18. State subject to suit.** The state, counties, cities, towns, and all other local governmental entities shall have no immunity from suit for injury to a person or property, except as may be specifically provided by law by a two-thirds vote of each house of the legislature. ~~This provision shall apply only to causes of action arising after July 1, 1973.~~"

NEW SECTION. **Section 2. Effective date.** If approved by the electorate, this amendment is effective December 1, 2011.

NEW SECTION. **Section 3. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act* and the following:

[ ] FOR allowing the legislature to determine sovereign immunity.+

[ ] AGAINST allowing the legislature to determine sovereign immunity (i.e., for continuing to prohibit sovereign immunity).+

-END-

Sample — Referendum for Constitutional Amendment

+Note: The title is limited to 100 words, and the FOR and AGAINST statements are limited to 25 words each.

*Note: The guidelines pertaining to brackets (see sections 3-2 and 4-11) do not apply to noncodified sections of ballot issues.

61st Legislature LC 0012.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE VIII OF THE MONTANA CONSTITUTION TO REPEAL SECTIONS 3 AND 4, WHICH PROVIDE FOR STATEWIDE PROPERTY TAX APPRAISAL, ASSESSMENT, AND EQUALIZATION; REPLACING THOSE PROVISIONS WITH A PROHIBITION AGAINST STATE-IMPOSED TAXES ON REAL OR PERSONAL PROPERTY; ALLOWING A LOCAL GOVERNMENT OPTION TO TAX REAL AND PERSONAL PROPERTY; AND REQUIRING THE STATE TO IMPOSE A GENERAL SALES TAX OF UP TO 4 PERCENT TO RECOVER REVENUE LOSSES FROM THE PROHIBITION AGAINST STATE-IMPOSED PROPERTY TAXES."+

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Repealer.** Article VIII, sections 3 and 4, of The Constitution of the State of Montana are repealed.

NEW SECTION. **Section 2.** Article VIII of The Constitution of the State of Montana is amended by adding a new section 17 that reads:

**Section 17. State prohibited from levying property tax — local option.** The legislature is prohibited from imposing a tax on the value of real or personal property. A local government unit may, at its option, impose a tax on real and personal property to defray the expenses of the local government unit.

NEW SECTION. **Section 3.** Article VIII of The Constitution of the State of Montana is amended by adding a new section 18 that reads:

**Section 18. Sales tax.** The state shall levy a general sales tax of up to 4%

to recover revenue losses because of the provisions of section 17.

NEW SECTION. **Section 4. Submission to electorate.** This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act* and the following:

[ ] FOR prohibiting state-imposed property taxes, allowing local governments to impose property taxes, and requiring a state sales tax to recover revenue losses.+

[ ] AGAINST prohibiting state-imposed property taxes, allowing local governments to impose property taxes, and requiring a state sales tax to recover revenue losses.+

-END-

+Note: The title is limited to 100 words, and the FOR and AGAINST statements are limited to 25 words each.

*Note: The guidelines pertaining to brackets (see sections 3-2 and 4-11) do not apply to noncodified sections of ballot issues.

61st Legislature LC 0013.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE LEGAL DRINKING AGE TO 21; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTION 16-3-301, MCA; AND PROVIDING AN EFFECTIVE DATE."+

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 16-3-301, MCA, is amended to read:

"**16-3-301. Unlawful purchases, sales, or deliveries.** (1) It is unlawful for a licensed retailer to purchase or acquire beer from anyone except a brewer or wholesaler licensed under the provisions of this code.

(2) It is unlawful for a licensee, an employee of the licensee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to:

(a) a person under ~~19~~ 21 years of age;

(b) an intoxicated person or any person actually, apparently, or obviously intoxicated.

(3) A minor or other person who knowingly misrepresents qualifications for the purpose of obtaining an alcoholic beverage from a licensee is equally guilty with the licensee and, upon conviction, is subject to the penalty provided in 45-5-624. However, this code may not be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law.

(4) A licensee shall display in a prominent place in the premises a placard as issued by the department stating fully the consequences for violations of the provisions of this code by persons under ~~19~~ 21 years of age."

NEW SECTION. **Section 2. Effective date.** If approved by the electorate,

this act* is effective January 1, 2011.

NEW SECTION. **Section 3. Submission to electorate.** This act shall be submitted to the qualified electors of Montana at the general election to be held in November 2010 by printing on the ballot the full title of this act* and the following:

[ ] FOR raising the legal drinking age to 21.+

[ ] AGAINST raising the legal drinking age to 21.+

-END-

+Note: The title is limited to 100 words, and the FOR and AGAINST statements are limited to 25 words each.

*Note: The guidelines pertaining to brackets (see sections 3-2 and 4-11) do not apply to noncodified sections of ballot issues.

61st Legislature LC 0014.01

_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 11 OF INITIATIVE MEASURE NO. 149; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 11 of Montana Initiative Measure No. 149 is amended to read:

"**Section 11. Applicability.** This act applies to cigarettes and other tobacco products received by wholesalers after ~~December 31, 2004~~ January 1, 2006."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

-END-

61st Legislature LC 0015.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING AN AMENDMENT TO ARM 4.6.607 TO PERMIT A HUSBAND AND WIFE FILING SEPARATE INCOME TAX RETURNS TO DIVIDE THE INCOME FROM A JOINT VENTURE OR PARTNERSHIP ACTIVELY MANAGED BY BOTH; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, income tax regulations promulgated by the Department of Revenue now provide that net income from a business operated jointly by a husband and wife, such as a farm or ranch, is the income of only one spouse unless the spouses file as a partnership on their federal income tax return; and

WHEREAS, ARM 4.6.607 is arbitrary in that it obliges married taxpayers to forego either the federal tax advantages of joint filing or the state tax advantages of separate filing; and

WHEREAS, ARM 4.6.607 is against public policy in that it fails to recognize the equal contributions of both spouses to the management of many farms, ranches, small businesses, and firms.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Department to amend rule.** The department of revenue shall amend ARM 4.6.607 to delete the requirement that spouses dividing income from a joint venture must organize a bona fide partnership and file federal income tax returns as such and to provide that spouses may allocate the income from a jointly managed business according to their respective contributions of time, labor, and capital to the business. The amendment must be made to apply to tax years beginning after December 31, 2008.

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

-END-

61st Legislature LC 0016.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE TAX CREDIT FOR NEW OR EXPANDING MANUFACTURERS; DIRECTING THE AMENDMENT OF ARM 42.23.511; REPEALING ARM 42.23.517; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the law allows a tax credit for new or expanding corporations; and

WHEREAS, the Legislature, in passing that law, intended to limit the law to manufacturers only and to give a tax credit to any form of manufacturing business, such as a sole proprietorship or partnership, and not just to corporations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** The Department of Revenue shall amend ARM 42.23.511 to read:

"42.23.511 CREDIT FOR NEW OR EXPANDING ~~CORPORATIONS~~ MANUFACTURERS (1) Sections 15-31-124 through 15-31-127, MCA, as amended, allow a tax credit equal to 1% of wages paid by a new or expanding ~~corporation~~ manufacturer. Any ~~corporation~~ manufacturer seeking credit under 15-31-124 through 15-31-127, MCA, shall conclusively demonstrate its eligibility to the department. The department's decision shall be final.

(2) Each ~~corporation~~ manufacturer seeking a credit under 15-31-124 through 15-31-127, MCA, shall show:

(a) that ~~it is a corporation preregistered pursuant to Title 35, chapter 1, MCA, as amended~~ the manufacturer is preregistered as a valid existing business under

the laws of this state;

(b) that it was registered for the first time during the tax year for which the first credit is claimed or that the industry meets the definition of expanding per 15-31-124, MCA, as amended; and

(c) that ~~the corporation is engaged in manufacturing~~ the applicant is a manufacturer as that term is defined in 15-31-124, MCA~~; and~~

~~(d) that the product manufactured is one, which prior to its production by the corporation, was not then currently produced in this state~~."

NEW SECTION. **Section 2. Repealer.** ARM 42.23.517 is repealed.

NEW SECTION. **Section 3. Effective date — applicability.** [This act] is effective on passage and approval and applies to tax years beginning after December 31, 2009.

-END-

61st Legislature LC 0017.01

_____ JOINT RESOLUTION NO._____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING THE ADOPTION OF A RULE BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS PROVIDING FOR THE EXAMINATION OF APPLICANTS FOR OUTFITTERS' LICENSES AT LOCATIONS OUTSIDE HELENA.

WHEREAS, the Department of Fish, Wildlife, and Parks licenses outfitters by examining applicants for licenses at its Helena offices; and

WHEREAS, the Department could examine applicants at its regional headquarters with little administrative inconvenience and by so doing would relieve the license applicants of an unwarranted burden.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Fish, Wildlife, and Parks Commission be requested to immediately initiate proceedings to adopt a rule setting out procedures for the examination of applicants for outfitters' licenses at the various regional headquarters of the Department of Fish, Wildlife, and Parks.

-END-

61st Legislature LC 0018.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN AMENDMENT TO ARM 4.6.607 TO PERMIT A HUSBAND AND WIFE FILING SEPARATE INCOME TAX RETURNS TO DIVIDE THE INCOME FROM A JOINT VENTURE OR PARTNERSHIP ACTIVELY MANAGED BY BOTH.

WHEREAS, income tax regulations promulgated by the Department of Revenue now provide that net income from a business operated jointly by a husband and wife, such as a farm or ranch, is the income of only one spouse unless the spouses file as a partnership on their federal income tax return; and

WHEREAS, ARM 4.6.607 is arbitrary in that it obliges married taxpayers to forego either the federal tax advantages of joint filing or the state tax advantages of separate filing; and

WHEREAS, ARM 4.6.607 is against public policy in that it fails to recognize the equal contributions of both spouses to the management of many farms, ranches, small businesses, and firms.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Department of Revenue be strongly urged to proceed within 30 days to amend ARM 4.6.607 to delete the requirement that spouses dividing income from a joint venture must organize a bona fide partnership and file federal income tax returns as such and to provide that spouses may allocate the income from a jointly managed business according to their respective contributions of time, labor, and capital to the business.

-END-

61st Legislature LC 0019.01

HOUSE RESOLUTION NO. _____

INTRODUCED BY _____

A RESOLUTION OF THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA THAT WHENEVER PRACTICABLE, ITS MEMBERS SHALL SALVAGE USED PAPER FOR RECYCLING.

WHEREAS, the Legislature and offices of state government use large amounts of paper each year; and

WHEREAS, this Legislature, this state, and this nation are concerned about the waste of paper; and

WHEREAS, the efficient use of forest products is of great concern to all of our citizens; and

WHEREAS, this House of Representatives desires to make a concerted effort toward a continual program of salvaging paper products for reuse; and

WHEREAS, a new industry in the State of Montana has indicated its willingness to cooperate with an immediate program of recycling.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the members of this House of Representatives immediately institute a used-paper recycling program by depositing used paper in the proper receptacles.

BE IT FURTHER RESOLVED, that the Chief Clerk of the House contact the proper authorities and make all arrangements necessary to carry out this program.

-END-

61st Legislature LC 0020.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MOTORISTS TO DRIVE WITH THEIR HEADLIGHTS ON DURING THE DAYTIME.

WHEREAS, hundreds of Montanans lose their lives in traffic accidents each year; and

WHEREAS, one out of every five traffic accidents on the open highways is the result of a head-on collision; and

WHEREAS, etc.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That members of the motoring public of Montana be encouraged to drive with their headlights on low beam in the daytime to deter head-on collisions on the open highways.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Congressional Delegation and to the publisher of each newspaper in the state.

BE IT FURTHER RESOLVED, that this resolution, etc.

-END-

61st Legislature LC 0021.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING MOTORISTS TO DRIVE WITH THEIR HEADLIGHTS ON DURING THE DAYTIME.

WHEREAS, hundreds of Montanans lose their lives in traffic accidents each year; and

WHEREAS, one out of every five traffic accidents on the open highways is the result of a head-on collision; and

WHEREAS, etc.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That members of the motoring public of Montana be encouraged to drive with their headlights on low beam in the daytime to deter head-on collisions on the open highways.

(2) That the Secretary of State send copies of this resolution to the Montana Congressional Delegation and to the publisher of each newspaper in the state.

(3) That this resolution, etc.

-END-

61st Legislature LC 0022.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO INVESTIGATE OPTIONS FOR IMPROVING ENERGY EFFICIENCY BUILDING CODES LAWS AND OTHER ENERGY EFFICIENCY AND CONSERVATION PRACTICES; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 62nd LEGISLATURE.

WHEREAS, section 50-60-201, MCA, establishes the purpose of the state building code; and

WHEREAS, section 50-60-201(6), MCA, provides that the state building code must be designed to "encourage efficiencies of design and insulation that enable buildings to be heated in the winter with the least possible quantities of energy and to be kept cool in the summer without air conditioning equipment or with the least possible use of the equipment"; and

WHEREAS, section 50-60-201(7), MCA, provides that the state building code must be designed to "encourage efficiencies and criteria directed toward design of building envelopes with high thermal resistance and low air leakage and toward requiring practices in the design and selection of mechanical, electrical, and illumination systems that promote the efficient use of energy"; and

WHEREAS, etc.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee or statutory committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to:

(1) evaluate the state's current energy-efficient building policies and

practices;

(2) investigate options for improving the energy-efficient building codes and practices in Montana; and

(3) etc.

BE IT FURTHER RESOLVED, that the study consider:

(1) the results of recent state and regional studies on the characteristics of nonresidential and residential building practices; and

(2) etc.

BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be presented to and reviewed by an appropriate committee designated by the Legislative Council.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2010.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 62nd Legislature.

-END-

61st Legislature LC 0023.01

_____ JOINT RESOLUTION NO. _____

INTRODUCED BY _____

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA AMENDING JOINT RULE 40-70 OF THE LEGISLATURE TO PROVIDE THAT A BILL EARMARKING FUNDING MAY NOT BE CONSIDERED UNLESS THE FUNDS ARE USED FOR THOSE FROM WHOM THEY ARE DERIVED OR UNLESS THE CONSTITUTION PROVIDES FOR THE EARMARKING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

(1) That Joint Rule 40-70 be amended to read:

"**40-70. Bills with same purpose — vetoes.** (1) A bill may not be introduced or received in a house after that house, during that session, has finally rejected a bill designed to accomplish the same purpose, except with the approval of the Rules Committee of the house in which the bill is offered for introduction or reception.

(2) Failure to override a veto does not constitute final rejection.

(3) It is not in order in either house to consider any bill providing for the earmarking of funding for the purpose of defraying particular costs of an agency, program, or function unless the funds are to be used for those from whom they are derived or are earmarked by the Montana Constitution. The determination of whether earmarking in a bill is permissible must be made by the Rules Committee of the house considering the bill."

(2) That this resolution be effective on passage.

-END-

61st Legislature LC 0024.01

_____ BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING SALES OF NEW DRUGS; AND AMENDING SECTION 50-31-111, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. **Section 1. Sale or donation of new drug unlawful — exceptions.** Except as provided in [section 2], a person may not sell, offer for sale, hold for sale, or give away a new drug unless:

(1) a federal application has been approved;

(2) the drug is not subject to federal law; or

(3) an application has been filed with the department containing:

(a) a summary of the conclusions drawn from investigation of the drug;

(b) a list of the substances of which the drug is composed; and

(c) a sample of the label proposed as identification for the drug, which may not:

(i) be false or misleading; or

(ii) contain a name used by a registered drug unless:

(A) permission has been granted and a license has been obtained; or

(B) the name is for temporary use.

NEW SECTION. **Section 2. Nonapplication.** [Section 1] does not apply to any drug subject to 50-31-102 if the drug:

(1) is commercially sold in the United States; and

(2) has been tested by the department.

**Section 3.** Section 50-31-111, MCA, is amended to read:

"**50-31-111. When labeling requirement complied with.** (1) A requirement made by or under authority of this chapter that a word, statement, or other information ~~shall~~ must appear on the label is not complied with unless the word, statement, or other information also appears on the outside container or wrapper, if ~~any~~ there ~~be~~ is one, of the retail package of the article or is easily legible through the outside container or wrapper.

(2) A new drug must meet the labeling requirements provided for in [section 1]."

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 50, chapter 31, and the provisions of Title 50, chapter 31, apply to [sections 1 and 2].

-END-

BILL IDENTIFICATION (Designation & No.)

61st Legislature LC 0025.01

_____ BILL NO. _____

(Sponsor)

INTRODUCED BY _____

(State agency or committee requester, if any)

BY REQUEST OF _____

TITLE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SAMPLE BILL FOR THE BILL DRAFTING MANUAL; PROVIDING AN APPROPRIATION; CREATING A STATE DEBT; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 2-17-301 AND 17-7-502, MCA, SECTION 4, CHAPTER 749, LAWS OF 1991, AND SECTION 1, CHAPTER 217, LAWS OF 1993; REPEALING SECTIONS 27-18-101, 27-18-102, 27-18-103, 27-18-104, 27-18-105, 45-5-102, AND 45-5-601, MCA, AND SECTION 6, CHAPTER 20, SPECIAL LAWS OF NOVEMBER 1993; AND PROVIDING EFFECTIVE DATES, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

PREAMBLE (Optional)

WHEREAS, pursuant to the authority provided in section 5-11-112, MCA, the State of Montana has delegated the Bill Drafting Manual Committee to provide a sample bill form to aid in drafting bills to be considered by the Legislature; and

WHEREAS, the Committee has drafted a composite bill containing unrelated sections and uncharacteristically inaccurate internal references in order to provide examples of various bill parts and to demonstrate the format used in drafting, amending, or repealing statutes and session law.

ENACTING CLAUSE (Mandatory)

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

BODY (Short title)

NEW SECTION. **Section 1. Short title.** [Sections 1 through 4

and 6 through 8] may be cited as the "Bill Sample Act".

(Purpose)

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 4 and 6 through 8] is to create a bill, the structure of which may be used by drafters as an example of correct style and form.

(Definitions)

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 4 and 6 through 8], the following definitions apply:

(1) "Code" means the Montana Code Annotated.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Legislative services division" has the meaning provided in 5-11-111.

(4) "Montana constitution" or "constitution" means The Constitution of the State of Montana.

(5) "Recodify" means to compile, arrange, rearrange, and prepare the code for publication.

(Basic provisions)

NEW SECTION. **Section 4. Department head.** Each department head shall supervise the functions vested in the department.

(Amendatory material)

**Section 5.** Section 2-17-301, MCA, is amended to read:

"**2-17-301. Supervision of mailing facilities.** The ~~controller~~ department shall maintain and supervise the central mailing facilities."

(New material)

NEW SECTION. **Section 6. Code commissioner.** There is within the legal services office of the legislative services division a code commissioner.

NEW SECTION. **Section 7. Sale or donation of new drug unlawful — exceptions — rulemaking authority.** A person may not sell, offer for sale, hold for sale, or give away a new drug unless:

(Outline form)

(1) a federal application has been approved;

(2) the drug is not subject to federal law; or

(3) an application has been filed with the department containing:

(a) a summary of the conclusions drawn from investigation of the drug;

(b) a list of the substances of which the drug is composed; and

(c) a sample of the label proposed as identification for the drug, which may not:

(i) be false or misleading; or

(ii) contain a name used by a registered drug unless:

(A) permission has been granted and a license has been obtained; or

(B) the name is for temporary use.

(4) The department shall [may] adopt rules regarding the dispensation of new drugs pursuant to the standards established in [sections 1 through 4 and 6 through 8].

(Penalty)

NEW SECTION. **Section 8. Penalty.** A person convicted of violating 45-2-102 shall be fined an amount not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(Amend session law)

**Section 9.** Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993~~ 2015."

**Section 10.** Section 1, Chapter 217, Laws of 1993, is amended to read:

"**Section 1.** Section 4, Chapter 749, Laws of 1991, is amended to read:

"**Section 4. Termination.** [This act] terminates June 30, ~~1993~~ ~~2009~~ 2015.""

(Repealer)

NEW SECTION. **Section 11. Repealer.** Sections 27-18-101, 27-18-102, 27-18-103, 27-18-104, 27-18-105, 45-5-102, and 45-5-601, MCA, and section 6, Chapter 20, Special Laws of November 1993, are repealed.

(Transfer of funds)

NEW SECTION. **Section 12. Transfer of funds.** The department of fish, wildlife, and parks is authorized to transfer money appropriated in [sections 1 through 4] among fund types.

NEW SECTION. **Section 13. Transfer of funds.** Any general fund reversions for fiscal year 2009 in excess of $15.9 million and any general fund reversions for fiscal year 2010 in excess of $6 million must be transferred to the long-range program account to be used to fund capital projects.

(Appropriation)

NEW SECTION. **Section 14. Appropriation.** There is appropriated $2 million from the general fund to the department of revenue for each of the fiscal years 2010 and 2011.

(Unfunded mandate)

NEW SECTION. **Section 15. Unfunded mandate laws superseded.** The provisions of [this act] expressly supersede and modify the requirements of 1-2-112 through 1-2-116.

(Transition)

NEW SECTION. **Section 16. Transition.** A general powers

local government that is imposing impact fees adopted on or before [the effective date of this act] shall bring those fees into compliance with [this act] by October 1, 2010.

(Notification)

NEW SECTION. **Section 17. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

(Name change)

NEW SECTION. **Section 18. Name change — directions to code commissioner.** Wherever a reference to the fish and game commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2009 legislature, the code commissioner is directed to change it to an appropriate reference to the fish, wildlife, and parks commission.

(Codification instruction)

NEW SECTION. **Section 19. Codification instruction — directions to code commissioner.** (1) [Sections 1 through 3 and 6 through 8] are intended to be codified as an integral part of Title 2, chapter 6, part 7, and the provisions of Title 2, chapter 6, part 7, apply to [sections 1 through 3 and 6 through 8].

(2) [Section 4] is intended to be codified as an integral part of Title 2, chapter 5, and the provisions of Title 2, chapter 5, apply to [section 4].

(3) Title 5, chapter 23, parts 8 and 9, are intended to be renumbered and codified as an integral part of Title 2, chapter 7.

(Coordination section)

COORDINATION SECTION. **Section 20. Coordination instruction.** If ___ Bill No. ___ [LC 1249] is passed and approved and if it includes a section that amends 56-4-401, then [section 5 of this act], amending 2-17-301, is void.

COORDINATION SECTION. **Section 21. Coordination instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either contains a section that amends 19-8-502, then the sections amending 19-8-502 are void and 19-8-502 must be amended as follows:

"**19-8-502. Member's contribution.** (1) Each member is required to contribute into the pension trust fund ~~8.5%~~ 10% of the member's monthly compensation, which must be deposited to the member's credit in the pension trust fund.

(2) Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code of 1954, as amended and applicable on July 1, 1985, shall pick up and pay the contributions that would be payable by the member under subsection (1) for service rendered after June 30, 1985.

(3) The member's contributions picked up by the employer must be designated for all purposes of the retirement system as the member's contributions, except for the determination of a tax upon a distribution from the retirement system. These contributions must become part of the member's accumulated contributions but must be accounted for separately from those previously accumulated.

(4) The member's contributions picked up by the employer must be payable from the same source as is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-102, and the member's compensation as used to define the member's highest average compensation in 19-8-101. The employer shall deduct from the member's compensation an amount equal to the amount of the member's contributions picked up by the employer and remit the total of the contributions to the board."

COORDINATION SECTION. **Section 22. Coordination**

**instruction.** If either House Bill No. 294 or Senate Bill No. 284, or both, and [this act] are passed and approved and if either contains a section that amends 19-8-504, then the sections amending 19-8-504 are void and 19-8-504 must be amended as follows:

"**19-8-504. State employer's contribution.** Each month, state employers shall pay to the pension trust fund a sum equal to ~~9%~~ 12% of the total compensation paid to their covered employees. The department of fish, wildlife, and parks shall include in its budget and shall request for legislative appropriation an amount necessary to defray the state's portion of the costs of this section."

(Sections 21 and 22 are separate coordination instructions for the same bill. Two coordination sections are required because a conflict requires that two MCA sections be amended.)

COORDINATION SECTION. **Section 23. Coordination instruction.** (1) If both Senate Bill No. 7 and [this act] are passed and approved, then Senate Bill No. 7 is void.

(2) If both Senate Bill No. 377 and [this act] are passed and approved, then [sections 1 through 4 of this act] are void. If Senate Bill No. 377 fails, then [this act] is void.

(3) If House Bill No. 284, House Bill No. 546, and [this act] are passed and approved, then [section 1] of House Bill No. 284 must be amended as follows:

"NEW SECTION. **Section 1. Environmental rehabilitation and prevention account.** (1) There is an environmental rehabilitation and prevention account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account unclaimed or excess reclamation bond money received, pursuant to 82-4-141, and interest earned on the account.

(3) Money in the account is available to the department of environmental quality by appropriation and must be used to pay for reclamation of unclaimed mine lands for which the department may not require reclamation by a legally responsible party.

(4) Whenever money deposited in the account during a fiscal year exceeds ~~$250,000~~ $100,000, the amount deposited in the account during the fiscal year in excess of ~~$250,000~~ $100,000 must, at the end of the fiscal year, be transferred to the general fund."

(Saving clause)

NEW SECTION. **Section 24. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

(Severability clause)

NEW SECTION. **Section 25. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

(Nonseverability clause)

NEW SECTION. **Section 26. Nonseverability.** It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

(Contingent voidness)

NEW SECTION. **Section 27. Contingent voidness.** If the defined contribution retirement plan enacted by Chapter 498, Laws of 2007, cannot be implemented because of an unfavorable internal revenue service determination or ruling, then [this act] is void.

(Extraordinary vote)

NEW SECTION. **Section 28. Three-fifths vote required.** Because 60-3-201(1)(e) authorizes the expenditure of a portion of the gasoline dealers' license tax for weed control along the state road system, Article VIII, section 6, of the Montana constitution requires a vote of three-fifths of the members of each house of the legislature for passage.

NEW SECTION. **Section 29. Three-fourths vote required.** Because [section 2] appropriates money from the coal severance tax trust fund, Article IX, section 5, of the Montana constitution requires a vote of three-fourths of the members of each house of the legislature for passage.

OR

Because [section 1] creates a subfund in the coal severance tax trust fund, Article IX, section 5, of the Montana constitution, as interpreted by the Montana supreme court in Montanans for the Coal Trust v. State, requires a vote of three-fourths of the members of each house of the legislature for passage.

NEW SECTION. **Section 30. Two-thirds vote required.** Because [section 2] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

NEW SECTION. **Section 31. Two-thirds vote required — contingent voidness.** Because [section 2] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage. If [this act] is not approved by at least two-thirds of the members of each house of the legislature, then [section 2] is void.

NEW SECTION. **Section 32. Two-thirds vote required.** Because [section 1] authorizes the creation of state debt, Article VIII, section 8, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

(Effective date)

NEW SECTION. **Section 33. Effective dates.** (1) Except as provided in subsections (2) and (3), [this act] is effective October 1, 2009.

(2) [Sections 1 through 4 and 9 and this section] are effective on passage and approval.

(3) [Sections 6 through 8] are effective December 1, 2009.

NEW SECTION. **Section 34. Effective date.** [This act] is effective December 1, 2009.

(Applicability)

NEW SECTION. **Section 35. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to occurrences after December 31, 2008.

NEW SECTION. **Section 36. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

NEW SECTION. **Section 37. Applicability.** [This act] applies to proceedings begun after December 31, 2009.

(Termination)

NEW SECTION. **Section 38. Termination.** [Sections 1 through 6] terminate September 30, 2012.*

-END-

*Noncodified sections should not be terminated. A repealer section may not be terminated, i.e., once Code sections are repealed, they may not be "unrepealed". See section 4-2 for a listing of codified and noncodified sections from the bill body.

New amendments to a temporary section must terminate when the temporary section terminates pursuant to section 1-2-203, MCA.

# Suggested Assignment of Statute Numbers*

MESSAGE TO CODIFIER

LC_____ _____BILL NO._____

INTRODUCED BY _____

BILL DRAFTER _____

| Bill Section No. | Statute No. Suggested |
|---|---|
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

**This form is commonly referred to as a "strawberry sheet". See section 4-19 for further explanation.*

# Bill Drafter Checklist

Drafter_____ Phone _____

***Note: Each question on the checklist calls for "yes", "no", or "N/A" response. Section number references are to Bill Drafting Manual.***

1 - Conformity with state and federal Constitutions considered (section 1-2)? **Make note of concerns below . . .** _____

2 - Existing Montana statutes reviewed to avoid conflicts, duplication, or confusion (section 1-4)? _____

3 - Internal references checked (section 1-8)? _____

4 - Title contains one subject clearly expressed (section 4-4)? _____

5 - Code placement and applicability considered: codification instruction included in draft or suggested assignment of statute numbers attached (section 4-19, Appendix Q)? _____

6 - Fiscal note required (section 6-1)? _____

7 - Local government fiscal impact (section 1-2)? _____

8 - Fiscal impact requiring July 1 effective date (sections 4-26, 6-1)? _____

9 - Appropriations (section 4-4(6))? _____

10 - Revenue (Joint Rule 40-200)? _____

11 - If state agency bill, "By Request" line included (section 4-3(4))? _____

12 - Note attached indicating source of draft (e.g., model act, other state statute, etc.) (section 1-7)? _____

13 - Tribal notification required (section 1-3)? _____

14 - Short Title revised to reflect draft (section 4-4(8))? _____

15 - Changed/Added bill subjects (including fiscal note, revenue, local gov impact, constitutional amendment)? _____

16 - Grants or extends rulemaking authority? _____

_____

**Drafter's Notes (contacts, changes, discussions, etc.):**

**REPEALING, RENUMBERING, OR TERMINATING AN ENTIRE CHAPTER OR PART**

**EXAMPLE:** repealing Title 15, chapter 71, part 1

| | |
|---|---|
| Search section text for: | "title 15, chapter 71, part 1"<br>"title 15, chapter 71, parts" (finds "parts 1 through 4")<br>"title 15, chapter 71" & part or parts (finds "part 1 of Title 15, chapter 71" or "parts 1 through 4 of Title 15, chapter 71") |
| Search section text in Title 15 only (limit search) for: | "chapter 71, parts"<br>"part 1"<br>parts & 1 (finds "parts 1 through 4 of this chapter") |

**EXAMPLE:** repealing Title 30, chapter 8

| | |
|---|---|
| Search section text for: | "title 30, chapter 8"<br>"title 30, chapters" |
| Search section text in Title 30 only (limit search) for: | "chapter 8"<br>chapters & 8 |

**CHANGING A DEFINED TERM**

Any time that you change a term that is defined in a definition section, you MUST search the appropriate part of the MCA for that term and change each occurrence. Think of as many possible (some bad) ways of using the term.

**EXAMPLE:** "child with disabilities" to "child with a disability"

| | |
|---|---|
| Search section text for: | "child with disabilities"<br>"children with disabilities"<br>any other variation that you can think of |

**CHANGING A PHRASE (DEFINED OR NOT)**

**EXAMPLE:** youth in need of supervision

| | |
|---|---|
| Search section text for: | "youths in need of supervision"<br>"youth" and "supervision" (finds "a youth who is determined to be in need of supervision") |

**EXAMPLE:** game wardens' retirement system

| | |
|---|---|
| Search section text for: | "game wardens retirement" (Folio does not recognize the apostrophe in "wardens'") |
| | "game wardens" and "retirement" (finds "highway patrol officers', sheriffs', game wardens', firefighters' unified, or municipal police officers' retirement system") |

**PRESESSION AUTHORITY TO PREINTRODUCE, NUMBER, AND DISTRIBUTE A BILL***

**DO NOT RETURN THIS FORM EXCEPT TO INTRODUCE THIS BILL SIGNING THIS FORM IS THE SAME AS SIGNING THE BILL AND DELIVERING THE BILL TO THE CHIEF CLERK OF THE HOUSE OR SECRETARY OF THE SENATE**

(Joint Rule 40-40(6))

To the Executive Director of the Montana Legislative Services Division:

***I understand that signing and returning this form has the same effect as introducing the bill during the session. This preintroduction form will authorize the assignment of a bill number and distribution of the bill prior to the convening of the legislative session.**

Please PREINTRODUCE this bill by typing my name and the names of the additional sponsors (if any) on the bill, numbering the bill, and distributing the bill prior to the convening of the legislative session.

You are hereby authorized to number and distribute LC____.01 prior to the convening of the legislative session. The subject of this bill, as reflected in the title, is:

"AN ACT..."

YES, I WANT TO PREINTRODUCE THIS BILL, AND I AGREE TO SPONSOR LC____.01.

SPONSORED BY _____
CHIEF SPONSOR (SIGN)

_____
CHIEF SPONSOR (PRINT)

_____
(DATE)

Additional sponsors must sign and print their names here:

**TO PREINTRODUCE THIS BILL, MAIL THIS FORM, SIGNED AND DATED, TO THE EXECUTIVE DIRECTOR, LEGISLATIVE SERVICES DIVISION, PO BOX 201706, HELENA, MONTANA 59620-1706, OR FAX THE FORM TO (406) 444-3036. A BILL NUMBER WILL BE ASSIGNED, YOUR NAME WILL BE TYPED ON THE BILL, AND THE BILL WILL BE DISTRIBUTED PRIOR TO THE CONVENING OF THE LEGISLATIVE SESSION.**

**Note: You do <u>not</u> need to return the bill with this form.**

**DO NOT RETURN THIS FORM EXCEPT TO INTRODUCE THIS BILL.**

# INDEX


**Abbreviations**, 3-3, 4-4
**Administrative rules**, See also **Rulemaking authority**
basic provisions of bills, 4-10
citations, 2-21, 3-1
repeal, amendment, or adoption, 6-2, 7-2, Appendixes K, L
statutory standards and criteria, 1-2
**Agencies**
bills to create or to change functions or duties, 5-4, 6-3
capitalization rules, 3-1
consultations with, 1-7
requests for bills, 1-1, 4-3, Appendixes A, B, E, J, R
rulemaking authority, bills granting, 1-2, 6-2
**Aids in drafting bills**, 1-4, 1-6, 1-7, 1-9, 5-3, 9-1 -- 9-3
**Amending clause**, 4-12, 10-3
**Amendments, bill**, 8-1, 8-2, 8-4
computerized system, 10-3
fiscal impact, affecting, 6-1
insert
material and renumber, 8-4(4)
material following stricken material, 8-4(3)
material only, 8-4(2)
whole new sentence after striking entire sentence, 8-4(3)
language samples, 8-4
more than one amendment on the same line, 8-4(11)
original purpose of bill, change prohibited, 8-2
previous amendments or to strip amendments, not allowed, 8-2
punctuation, correction, 8-4(13)
reminders, 8-2
renumber sections or subsections following amendment, 8-4(9)
same amendment in many places in large bill, 8-4(12)
standing committee reports, 8-1
strike
all of the bill following the enacting clause and substituting a new bill, 8-3, 8-4(14), Appendix O
and insert columnar figures in appropriation bills, 8-4(5)
and renumber subsequent sections or subsections, 8-4(9)
and replace a section or subsection, 8-4(10)
a section, subsection, or long passage in its entirety, 8-4(8)
certain lines in their entirety, 8-4(7)

**Amendments, bill** (Continued)
strike (continued)
end of one section and to continue through catchline or middle of following section, not allowed, 8-2
entire sentence and insert a whole new sentence, 8-4(3)
material only, 8-4(6)
previously adopted amendments, 8-2
substitute bill, 8-2, 8-3, 8-4(14), Appendix O
title of bill, 8-2, 8-4(1)
**Amendments, code section**, See also **Code section numbers**
amending clause, 4-12, 10-3
arrangement in bill, 4-12
computerized system, 1-6, 4-12, 10-3
contingent effective dates, sections containing, 4-26
coordination sections, 4-20, Appendix P
"cut-and-paste" method, 1-6
determination, 1-4
internal reference list, use, 1-4, 1-6, 1-8
multiple amendments to same code section, 4-20
name change amendments, 4-14, Appendix P
organization, 1-5, 4-10
repealers, amendment of sections containing reference to, 4-17
research and drafting, 1-4 -- 1-6
rulemaking authority, amendments for modification or expansion, 6-2
samples, Appendixes A, D, E, I, O, P
sections amended list, 4-20
termination date, sections containing, 4-27
"This Act", use, 2-19, 3-2(4)
title of bill, purpose and list included in, 4-4
**Amendments, constitutional**, 4-24, 5-5, 5-7, Appendix H
**Amendments, contingent effective date** -- sections containing, 4-26
**Amendments, initiatives**, Appendix J
**Amendments, name change**, 4-14, Appendix P
**Amendments, session law**, 4-12, 4-17, Appendixes E, P
**Amendments, termination date** -- sections containing, 4-27
**Amendments, termination sections**, 4-17, Appendix P
**Applicability date (sections)**, 4-2, 4-25, 8-2, Appendixes K, P
**Appropriation as part of nonappropriation bill**, 4-2, 4-4, 5-4, Appendixes P, R

**Appropriation bills**, 5-4, Appendix F
amendment, 8-4(5)
effective date, 4-4, 4-26, 6-1, Appendix F
fiscal note requirement, exception, 6-1
judgment against state, to satisfy, Appendix F
prior to 1991, citation, 2-21
title of bill, 4-4, 8-2, Appendix R
**Arrangement and form of bills**, 4-1, 4-2, Appendix P

**Ballot issues**, 4-26, 5-5, 5-6, Appendixes H, I, J
**Basic provisions of bill**, 4-2, 4-10, Appendix P
**"Bill Drafting Request" form**, 1-9
**"Bill Draft Requests by Subject"**, report and online LAWS Internet system as aid in drafting, 1-7
**Body of bill**, 4-2, Appendix P
**Bond Validating Act**, 5-1, Appendix G
**Brackets**, use, 3-2(4), 4-11, 8-2, Appendixes H, I, P
**"By Request....." line**, 4-2, 4-3, Appendixes A, B, E, J, P, R

**Capitalization**, 3-1, 4-15, 7-2, 8-2
**Catchlines**, 4-11, 4-15, 10-3
amendment, 8-2
numbers in, expression, 3-16
**Checklist, Bill Drafter**, 1-9, 6-1, 6-2, Appendix R
**Citations**, 2-21, 3-1
**Coal severance tax trust fund principal**, bills appropriating -- extraordinary vote requirements, 4-24, 5-7, Appendix P
**Code commissioner, directions to**, 4-2, 4-14, 4-19, Appendix P
**Code placement and applicability**, See **Codification instructions**
**Code section numbers**, See also **Amendments, code section**
amendatory material, 4-12
assignment, 4-1, 4-11, 4-19, Appendixes P, R
renumbering, 4-19
repeal, See **Repeal of code sections**
"Suggested Assignment of Statute Numbers" form, 4-19, Appendixes Q, R
**"Code sections affected" list**, 4-20

**Codification instructions**, Appendix R
incorporation
new law into present law, 4-9, 4-19
present law into new law, intention, 4-19
placement in bill, 4-2
renumbering and/or reintegration of sections, 4-19, Appendix P
rulemaking authority, bills granting, 6-2
samples, Appendixes D, O, P
"Suggested Assignment of Statute Numbers" form, 4-19, Appendixes Q, R
**Codified parts of bill**, 4-2, 4-11, Appendix P
**Compiler's comments, "source"**, 1-7
**Composite sections**, 4-20
**Computerized bill drafting and processing**, 1-6, 10-1, 10-3
amendment of code sections, 1-6, 4-12, 10-3
entry of bills prior to introduction, 4-1
searches, framing, 10-2
searching tips, 8-2, 10-2, Appendix S
**Conflicting bills**, 4-20
**Constitutional convention**, bills to propose calling -- extraordinary vote requirements, 4-24, 5-7
**Constitutionality**, 1-2, 1-4, 4-8, 4-22, 4-23, 6-2, 8-2
**Constitution, Montana**
amendment, bills for, 4-24, 5-5, 5-7, Appendixes H, R
appropriation bills, provision for, 5-4
bills, alteration or amendment to change purpose prohibited, 8-2
capitalization rules, 3-1
citations, 2-21, 3-1
joint resolutions, provision for, 7-2
referendums, 5-5, 5-6, 8-2, Appendix H
review and research, 1-2, Appendix R
source of information, as, 1-4, 1-7, 9-1
title of bill, provision for, 4-1, 4-4
**Constitutions of other states**, 1-7
**Constitution, United States**, 1-2, 1-4, 2-21, 3-1, 5-6, 7-2, Appendix R
**Construction of state buildings**, joint resolutions for approval, 7-2
**Contingent effective date**, amendment of sections containing, 4-26
**Contingent voidness sections**, 4-2, 8-2, Appendix P

**Coordination instructions**, 4-2, 4-20, 8-2, Appendix P
**Coordination sections**, 4-20, Appendix P
**Criminal statutes**
internal references, retroactive application, 2-18
repeal, effect, 4-21
**"Cut-and-paste" method**, 1-6

**Definitions sections**, 1-3, 3-2(5), 4-2, 4-9, 6-3, 8-2, Appendix P
**Delegation of authority**, problems involving, 1-2, 6-2
**Designation and number on bill**, 4-2, 4-3, Appendix P
**Disasters and emergencies**, joint resolutions concerning, 7-2
**Discrimination**, problems involving, 1-2
**Drake amendment**, 1-2, 6-1, Appendix R

**Effective dates**, 4-26, 6-1
applicability date, 4-25
brackets, use, 3-2(4)
constitutional amendments, 5-5, Appendix H
contingent, amendment of sections containing, 4-26
expression, 3-15, 8-2
extraordinary votes, sections for notice requirements, 5-7
fiscal impact, bills with, 6-1, Appendix R
placement in bill, 4-2, Appendix P
referendums, Appendix I
repealers, delayed effective date, 8-2
rulemaking authority, bills granting, 6-2
samples, Appendixes A, B, D, E, F, H, I, J, K, N, P
saving clause, effect, 4-21
sections for, 1-6, 2-19, 4-13
special session, statutes enacted during, 4-26, 6-1
title of bill, inclusion, 4-4, 4-26, 8-2, Appendixes A, B, D, E, F, H, I, J, K, N, P
**Enacting clause**, 4-1, 4-2, 4-6, 10-3, Appendix P
resolving clause of joint resolutions, 7-2
**End of bill draft**, 1-6
**Equal protection of the law**, problems involving, 1-2, 4-8
**Exception, the**, 2-14, 2-15
**Extraordinary votes**, bills requiring, 4-2, 4-24, 5-5, 5-7, 8-2, Appendix P

**"FAX" transmission of drafts**, 1-6
**Federal laws or regulations**
agency rulemaking authority, bills granting, 6-2
citations, 2-21
incorporation by reference, 1-2
joint resolutions for support or disapproval, 7-2
legislative power limited by, 1-2
source of information, as, 1-4
**Fiscal impact**, bills with, 4-26, 6-1, Appendix R
**Fiscal notes**, 6-1, Appendix R
**Form and arrangement of bills**, 1-5, 4-1, 4-2, Appendix P
**Format**
bills, 1-5, 4-2
joint resolutions, 7-2
**Fund transfers**, bills with amendatory material for, Appendix A

**General appropriation bills**, See **Appropriation bills**
**General revision bills**, title provisions, 4-4, 8-3, 8-4(14)
**Governor**
bills, signing or veto, 4-1, 4-12, 4-26, 5-7
constitutional amendments, signature not required, 5-5
joint resolutions, signature not required, 7-2
**Grammar**, See **Language and style**

**Highway revenue for nonhighway purposes**, bills appropriating -- extraordinary vote requirements, 4-24, 5-7

**Identification of bill**, 4-2 -- 4-4, 10-3, Appendix P
**Immunity from suit**, bills granting to public entities -- extraordinary vote requirements, 4-24, 5-7, Appendix P
**Indexes of publications as aid in drafting**, 1-7
**Indian issues**, consideration, 1-3
notification to tribal governments, 1-3, 4-2, Appendixes P, R
**Initiatives**, 2-21, 4-26, Appendix J, See also **Referendums, bills for**
**Interim studies**, joint resolutions requesting, 7-2, Appendix N

**Internal Reference List, Online** -- use, 1-4, 1-6, 1-8, 4-17, 8-2, Appendix R
**Internal references**, 2-18, Appendix P
amending bills, reminders, 8-2, 8-4(9), 8-4(10)
amendment of sections containing, 1-6
brackets, use, 3-2(4), 4-11, 8-2
new material, in bills containing, 3-2(4), 4-11
use, 1-2, 2-18, 4-17, Appendix R
**Interstate compacts**, 5-2
**Introduced bills**
fiscal note requirements, 6-1
preintroduction, 1-1, Appendix T
status of current bills, 1-7, 4-4, 4-20
**"Introduced Bills by Subject"**, report and online LAWS Internet system as aid in drafting, 1-7

**Joint resolutions**, 5-6, 7-2, Appendixes L, N
**Joint Rules of the Legislature**
amendatory material, provisions for, 4-12
bills, form and arrangement, 4-1
"by request....." line, 4-3
citations, 2-21
resolution for amendment or adoption, 7-2, Appendix N
selected provisions relating to drafting, 9-3, Appendix R
substitute bills, 8-3
**Judgment against state**, appropriation bill to satisfy, Appendix F

**Labor settlements**, joint resolutions regarding, 7-2
**Language and style**, 2-1
adjectives
demonstrative, 2-9
redundant, 2-12
adverbs, redundant, 2-12
amendment language samples, 8-2, 8-4, See **Amendments, bill**
"appropriate" or derivations of, use of word, 5-4
articles, 2-9
avoidable words, 2-20
citations, 2-21, 3-1
conjunctions, 2-14, 2-20, 3-2, 4-15
consistency, 2-13, 8-2

**Language and style** (Continued)
exception, the, 2-14, 2-15
gender-neutral, 2-11
"if", "when", "where", "whenever", 2-17
limitations, introduction to, 2-14
mood, 2-4
"must", "may", "shall", 2-4, 2-5, 4-16
negatives, 2-6, 2-9
"no-no" words, 2-20
number, 2-8
pronouns, 2-10, 2-11
provisos, 2-14, 2-20
"said" or "such", 2-9, 2-20
"shall", "must", "may", 2-4, 2-5, 4-16
singular instead of plural, 2-8
tense, 2-3
"that" or "which", 2-16
"This Act", use, 2-19, 3-2(4)
verbs
conversational verb construct, 2-2
"shall", "must", "may", "may not", "may only", 2-5
voice, 2-7
word choice generally, 2-2
**Law, bills become** -- when, 4-1, 4-26
**LAWS Internet System**, 1-7, 4-4
**Laws of Montana**, See **Session Laws**
**Laws of other states as aid in drafting**, 1-7
**Legislative committees**
decisionmaking authority, delegation to, 1-2
fiscal impact, bills with, 6-1
requests for bills, 1-1, 4-3, Appendix D
standing committee reports, bill amendments, 8-1
**Legislative Council,** gender-neutral terms -- standards for use, 2-11
**Legislative Services Division**
amendments, bill, See **Amendments, bill**
capitalization rules, 3-1
drafting aids supplied by, 1-6 -- 1-9
form and arrangement of bills, 4-1
number, bill draft, 4-2, 4-3, Appendix P
policy and the drafter, 1-1

**Legislative Services Division** (Continued)
preintroduction of bills, 1-1, Appendix T
review of bills, 4-1, 4-12, 6-1
searches, framing, 10-2
sections amended list, 4-20
short bill titles (for LAWS Internet system), preparation, 4-4, Appendix R
submission of drafts to, 1-6, 1-7, 1-9, 4-4
**"LEXIS" or WESTLAW legal research system**, use, 10-2
**Local governments**, state mandates to, 1-2, 6-1, Appendix R
**Local statutes as source of information**, 1-4

**Model acts**, 1-7, 5-3
**Montana Code Annotated**, See also **Amendments, code section**; **Code section numbers**; **Codification instructions**; **Internal references**; **Repeal of code sections**
abbreviation, 3-3
arrangement, 2-21
brackets, use, 3-2(4)
capitalization rules, 3-1
citations, 2-21, 3-1
code commissioner, directions to, 4-2, 4-14, 4-19, Appendix P
searches, framing, 10-2, Appendix S
source of information, as, 1-4, 1-6, 1-7, 4-14, 9-2
updating and publication, 10-1, 10-3
**Motor vehicle taxes or fees**, bills enacting -- effective date, 4-4, 4-26, 6-1
**Multisubject legislation**, 4-4

**Name change amendments**, 4-14, Appendix P
**New material**, bills containing, 1-5, 1-6, 4-10
amendatory material, 4-12, Appendixes D, P
catchlines, 4-11, 4-15
code placement, See **Codification instructions**
internal references, 3-2(4), 4-11
new sections
designation, 4-13
placement in bill, 4-11

**New material**, bills containing (Continued)
rulemaking authority, granting, 6-2, Appendix R
samples, Appendixes C, D, G, O, P
**New section numbers**, See **Code section numbers**
**New sections**
coordination sections, 4-20, Appendix P
designation, 4-13, Appendixes A, B, C, D, E, F, G, H, I, J, K, O, P
placement in bill, 4-11
**Noncodified parts of bill**, 1-6, 2-19, 4-2, 4-13, 4-22, 4-27, 8-2, Appendixes H, I, P
**Nonseverability clause**, 4-2, 4-23, Appendix P
**Numbering of bills**, 4-2, 4-3, Appendixes P, T
**Numbering of bill sections**, 1-6, 8-2
**Numbers, expression**, 3-4
age, 3-7
amendment language, 8-2
bill titles and catchlines, in, 3-16
classes, grades, etc., 3-1, 3-14
dates and fiscal years, 3-15, 8-2
fractions, 3-9, 3-12
measurements, 3-6, 3-10, 3-12
money, 3-5, 3-10
ordinals, 3-11, 3-13, 3-14
percentages, 3-9, 3-12
series, in, 3-13
time, 3-3, 3-8, 3-10, 3-15
unit modifiers, 3-10, 3-12

**Operative provision**, compliance date, 4-21
**Organization**, 1-4, 1-5, 4-10
**Outline for bill draft**, 1-5
**Outline style for sections and subsections**, 4-15, 8-2, 8-4(9), Appendix P
joint resolution, Appendix N

**Parts of bill**, 1-5, 4-1, Appendix P
applicability sections, 4-2, 4-25, 8-2, Appendixes K, P
appropriation section in nonappropriation bill, 4-2, 4-4, 5-4, Appendixes P, R
arrangement, 4-1, 4-2, Appendix P
basic provisions of bill, 4-2, 4-10, Appendix P
bill identification, 4-2, 4-3, 10-3, Appendix P
body of bill, 4-2, Appendix P
code commissioner, directions to, 4-2, 4-14, 4-19, Appendix P
codification instruction sections, See **Codification instructions**
contingent voidness sections, 4-2, 8-2, Appendix P
coordination instruction sections, 4-2, 4-20, 8-2, Appendix P
coordination sections, 4-20, Appendix P
definitions sections, 1-3, 4-2, 4-9, 6-3, 8-2, Appendix P
effective date sections, See **Effective dates**
enacting clause, 4-1, 4-2, 4-6, 7-2, 10-3, Appendix P
extraordinary vote clause, 4-2, 4-24, 5-7, 8-2, Appendix P
nonseverability clause, 4-2, 4-23, Appendix P
outline style for sections and subsections, 4-15, 8-2, 8-4(9), Appendixes N, P
penalty sections, 4-2, 4-16, Appendix P
preamble, 4-2, 4-5, 4-8, 7-2, Appendixes B, K, L, M, N, P
purpose section, 4-2, 4-8, Appendix P
repealer sections, See **Repeal of code sections**
saving clause, 4-2, 4-21, Appendixes G, P
severability clause, 1-6, 4-2, 4-22, Appendix P
short title, 1-7, 4-2, 4-7, Appendix P
temporary sections, 2-19
termination sections, 4-2, 4-17, 4-27, 8-2, Appendixes A, P
title, See **Title of bill**
transfer of funds, 4-2, 5-4, Appendix P
transition sections, 2-19, 4-2, 4-18, Appendix P
tribal governments, notification to, 1-3, 4-2, Appendixes P, R
unfunded mandate laws superseded, 4-2, 8-2, Appendix P
**Penalty sections**, 4-2, 4-16, Appendix P
**Policy and the drafter**, 1-1, 1-4
**Preamble**, 3-1, 4-2, 4-5, 4-8, 7-2, Appendixes B, K, L, M, N, P
**Preintroduction**, 1-1, Appendix T
**Prior sessions**, bills from -- as drafting aid, 1-7
**Private organization regulations**, incorporation by reference, 1-2

**Punctuation**, 3-2
amendment language, 8-2
brackets, 3-2(4), 4-11, Appendixes H, I
colon, 3-1(1), 3-2(3), 4-15
comma, 2-16, 3-2(1), 3-2(5), 3-15
correction by amendment, 8-4(13)
dashes, 4-11
parentheses, 3-2(4)
periods, 3-2, 4-15
quotation marks, 3-2(5)
semicolon, 3-2(2), 4-15
**Purpose of bill**, 1-4, 8-2
**Purpose section**, 4-2, 4-8, Appendix P

**Reference, incorporation by**, 1-2, 2-15, 3-2(5), 4-19, See also **Codification instructions**
**Referendums, bills for**, 4-26, 5-6, Appendix I, See also **Initiatives**
constitutional amendments, 5-5, Appendix H
title of referendum, 100-word limitation, 8-2, Appendixes H, I
**Renumbering**
amendments, bill, 8-4
code commissioner, directions to, 4-19, Appendix P
codification instructions for, 4-19, Appendixes P, R
subsections within a section, 1-8
**Repeal of code sections**, 4-17
amending bills, reminders, 8-2
criminal statutes, 4-21
determination, 1-4
internal reference list, use, 1-4, 1-8, 4-17, 8-2
organization, 4-10
repealer
new section, designation as, 4-13, Appendix B
placement in bill, 4-2, Appendixes B, E, P
session law, 4-17
termination not allowed, 4-27, Appendix P
"This Act", use, 2-19
title of bill, list included, 4-4, Appendixes B, E, P
**"Request" form**, 1-9
**Research and drafting**, 1-4
**Resolutions**, 3-1, 7-1, 7-2, Appendixes L, M, N

**Resolving clause of joint resolutions**, 7-2
**Revision of draft**, 1-5
**Rewriting of drafts or bills**, 1-5, 8-3, 8-4
**Rulemaking authority**, See also **Administrative rules**
bills granting, 1-2, 6-2, Appendix R
incorporation by reference, 1-2
**Rules**, citations and capitalization, 2-21, 3-1, See also **Administrative rules**; **Joint Rules of the Legislature**

**Saving clause**, 4-2, 4-21, Appendixes G, P
**School districts**, state mandates to, 1-2, 6-1
**Searching tips**, 4-14, 8-2, 10-2, Appendix S
**Sections amended list**, 4-20
**Separation of powers**, problems involving, 1-2, 6-2
**Session Laws**, 2-21, 4-1, 10-3
amendments to or repeal of, 4-12, 4-17, Appendixes E, P
capitalization rules, 3-1
citations, 2-21, 3-1
**Severability clause**, 1-6, 4-2, 4-22, Appendix P
**Short bill title (for LAWS Internet system)**, 1-7, 4-4, Appendix R
**Short title**, 1-7, 4-2, 4-7, Appendix P
**Simple resolutions**, 7-1, Appendix M
**Sources of information**, 1-2, 1-4, 1-7, 4-20, 5-2, 5-3, 5-5, 5-6, 9-1 -- 9-3, 10-2, Appendix R
**Special legislation**, problems involving, 1-2
**Special session, statutes enacted during** -- effective date, 4-26, 6-1
**Sponsor line**, 4-2, 4-3, Appendix P
**Sponsor's fiscal note**, 6-1
**Standing committee reports**, bill amendments, 8-1
**State debt**, bills creating -- extraordinary vote requirements, 4-2, 4-24, 5-7, 8-2, Appendix P
**"Strawberry sheets"**, 4-19, Appendixes Q, R
**Style and language**, See **Language and style**
**Subject of**
bills, 4-4, 5-4, 8-2, 8-3, 8-4, Appendix R
joint resolutions, 7-2
**Substitute bills**, 8-2, 8-3, 8-4(14), Appendix O
**"Suggested Assignment of Statute Numbers" form**, 4-19, Appendixes Q, R

**"Suggested State Legislation" as aid in drafting**, 1-7, 5-3
**Supreme court orders**, citations, 2-21

**Temporary sections**, 2-19
**Termination sections**, 4-2, 4-17, 4-27, 8-2, Appendixes A, P
**Timesavers**, 1-6
**Title of bill**, 4-1, 4-2, 4-4, Appendixes P, R
amendment, 8-2, 8-4(1), 8-4(14)
effective dates, inclusion, 4-4, 4-26, 8-2, Appendixes A, B, D, E, F, H, I, J, K, N, P
general revision bills, 8-3, 8-4(14)
numbers in, expression, 3-9, 3-16
short bill title (for LAWS Internet system), 1-7, 4-4, Appendix R
short title, 1-7, 4-2, 4-7, Appendix P
substitute bills, 8-3, 8-4(14)
**Tobacco settlement trust fund principal, interest, and income** -- bills appropriating, extraordinary vote requirements, 4-24, 5-7
**Transfer of funds**, 4-2, 5-4, Appendix P
**Transition sections**, 2-19, 4-2, 4-18, Appendix P

**Uniform acts**, 1-7, 5-3
**Unfunded mandate laws superseded**, 4-2, 8-2, Appendix P

**Validating bills**, 5-1, Appendix G
**Vetoed bills**, extraordinary vote requirements to override, 4-2, 4-24, 5-7

**Word choice**, See **Language and style**